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Public Participation

Oregon's process for siting large energy facilities is based on a set of standards developers of proposed power plants and transmission lines must meet. This fact sheet describes the siting process and how citizens can most effectively communicate their concerns and comments about a proposed facility to the **Energy Facility Siting Council** (Council) and the **Oregon Department of Energy** (Department). The seven-member Council is appointed by the Governor to make the final decision, and the Department is the state agency that serves as staff to the Council.

The Department and the Council encourage the public to participate in the siting process. This fact sheet describes a standard siting process and explains how you can participate in the decision-making process.

Notice of Intent and Project Order

The process starts when a developer selects a location for a proposed energy facility and submits a **Notice of Intent** to apply for a **Site Certificate**. Some facilities are eligible for an "expedited review" process and may skip this step.

The Department issues a public notice when it receives a Notice of Intent and sends a public notice to people on the Council's general mailing list, people on a mailing list set up for the proposed project, and property owners located near the proposed site. If you would like to be added to the Council's general list (to receive notices of all proposed facilities), or to the project-specific mailing list, please contact the Department.

The Department publishes a public notice in one or more local newspapers that briefly describes

the proposed facility, gives the time and date for a public information meeting about the project, and specifies the start and end of the public comment period for the Notice of Intent. The information meeting is intended to explain the siting process, describe the proposed facility, and gather information from concerned citizens. Although the Department asks the developer to attend the meeting to answer questions from the public, the developer may still be working out some of the details about the proposed facility and may not be able to answer fully all of the public's questions at this initial meeting.

The Department listens to public comments and questions at the meeting and considers those comments along with written comments in the preparation of a Project Order. The Project Order outlines the information the developer must include to apply for a Site Certificate, including information required to address public concerns about issues within the Council's jurisdiction. Your local knowledge of the proposed site and surrounding areas, and your site-specific concerns, are particularly helpful to the Department staff preparing the Project Order and helps ensure the developer's application will be as complete as possible.

Application for a Site Certificate

Based on the requirements described in the Project Order, the developer submits a **Preliminary Application for a Site Certificate** to the Department. The Department arranges for distribution of the preliminary application to other state agencies and to affected tribes and local governments and asks them to provide comment on whether the application contains sufficient information to move on to the next phase of the review process. If not, the Department may request

additional information from the developer. This process of “completeness” review may take several months.

When the Department determines that the application is complete, it is deemed “filed” for the purpose of the siting rules. At this point the Department opens a public comment period, issues another public notice to all persons on the mailing list, places copies of the application in local libraries and other locations for public review, and usually holds another information meeting. The application contains much more detail than the Notice of Intent, and you might find that many of your questions from earlier in the process will be answered in the application.

With input from the public and other agencies and officials, the Department then analyzes the information in the application to determine whether the proposed facility meets the Council’s siting standards. It is particularly helpful when the public provides comment to the Department specific to whether the proposed project can meet the Council’s standards (the standards are explained in a separate fact sheet).

Draft Proposed Order

When the Department completes its review of the application and comments from state and local governments, affected tribes and public comments, it issues a **Draft Proposed Order** in which it recommends to the Council whether to grant or deny a Site Certificate. If it recommends granting a Site Certificate, the Department includes proposed site certificate conditions in the Draft Proposed Order.

After the Department issues the Draft Proposed Order, it opens another comment period, provides notice to the public, and holds a public hearing. An independent hearing officer is appointed by the Council to conduct the public hearing. This comment

period and hearing on the Draft Proposed Order are very important for any member of the public who might want to participate later in the **Contested Case Proceeding** on the application or to appeal the Council’s final decision.

To be eligible to participate in the Contested Case Proceeding, you must comment during the record of the public hearing, which includes either oral testimony at the hearing or written comments submitted during this comment period. Comments made during any earlier part of the siting process will not make a person eligible to participate in the contested case. If there is an issue you intend to raise in the Contested Case Proceeding, it must be about something within the Council’s jurisdiction and you must state the issue clearly and specifically enough to allow for a response.

Proposed Order

After the hearing on the Draft Proposed Order, the Council meets to review the draft. The Council does not normally take public comment at this meeting. Department staff then review the comments from the Council, the public, and other government entities on the Draft Proposed Order, make revisions deemed necessary, then issue a **Proposed Order** and notice of a Contested Case Proceeding.

Contested Case Proceeding and Proposed Order

The Contested Case Proceeding, required under Oregon law, is a fact-finding process somewhat like a court proceeding. The Council appoints an independent hearing officer to conduct the proceeding.

Aside from the applicant and the Department, anyone else wanting to participate in the Contested Case Proceeding must request “party status.” Notice of the Contested Case Proceeding includes a date by which a person must request party status

and is mailed to anyone who appeared in person or in writing on the record of the public hearing on the Draft Proposed Order. The hearing officer determines who is eligible to be a party.

At the conclusion of the proceeding, the hearing officer issues a Proposed Order on the matters addressed in the proceeding. Parties in the contested case may file exceptions to this Proposed Order.

Final Order

Following the Contested Case Proceeding, the Council reviews the hearing officer's Proposed Order and decides whether to issue a Site Certificate. The Council grants a Site Certificate if at least four members of the Council agree. The Council issues its decision in a Final Order. Only a party to the contested case may apply for a rehearing or appeal the decision to the Oregon Supreme Court.

Matters Outside of the Council's Jurisdiction

Some matters are outside of the jurisdiction of the Council. These can include air quality permits, some land use decisions, federal impacts and more. Members of the public may have the opportunity to comment on these matters in proceedings of other agencies outside of the energy facility siting process on a proposed project. For more information about issues outside of the Council's jurisdiction, see the fact sheet titled "Council Standards."

For More Information

More information about Oregon's energy facility siting process is on the Oregon Department of Energy's website at: www.oregon.gov/ENERGY/SITING.

Energy Facility Siting Council: A seven-member board appointed by the Governor to make the final decision on applications for energy facility site certificates.

Site Certificate: A binding agreement between the State of Oregon and the developer of an energy facility. The Site Certificate authorizes construction and operation of the facility, subject to terms and conditions.

Notice of Intent: A document filed early in the process by the developer of a proposed energy facility, indicating intent to submit an application for a Site Certificate. The Notice of Intent provides general information about a proposed site and a proposed facility. Information in the Notice of Intent is preliminary and subject to change.

Project Order: An Oregon Department of Energy document written after review of the Notice of Intent. The Project Order details specific information that must be included in the application. In preparing the Project Order, the Department considers the comments on the Notice of Intent from other government agencies, affected tribes and members of the public.

Draft Proposed Order: A Draft Proposed Order is an Oregon Department of Energy document prepared after review of the application and comments from interested parties. It includes the Department's recommendations to the Energy Facility Siting Council on whether to grant or deny a Site Certificate. If the Department recommends that the Site Certificate be granted, the Draft Proposed Order will include the proposed conditions for the Site Certificate.

Proposed Order: After the Oregon Department of Energy has reviewed comments on the Draft Proposed Order from the Energy Facility Siting Council and other interested parties, it makes revisions as necessary and issues a Proposed Order. The Proposed Order is issued with notice of a Contested Case Proceeding.

Contested Case Proceeding: A fact-finding process conducted by a hearing officer after the Oregon Department of Energy issues a Proposed Order. Using the Department's Proposed Order as a starting point, the hearing officer considers evidence presented during the Contested Case Proceeding and then issues a separate Proposed Order. It is this Proposed Order that goes before the Energy Facility Siting Council for a final decision on the Site Certificate application.

Final Order: The Energy Facility Siting Council document containing the Council's decision on an application.