

State Energy Facility Siting

Senate Environment &
Natural Resources Committee

February 9, 2015

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ORS 469.310 (Policy)

*The purpose of the regulation of energy facilities
is to establish*

“A comprehensive system for the siting,
monitoring and regulating of the location,
construction and operation of all energy
facilities in this state”

State Energy Siting Basics

- Energy Facility Siting Council (EFSC)
- Oregon Department of Energy (ODOE) Staff
- Consolidated Review Process
- Standards Based Process
- Site Certificate
- Application Fees



Jurisdiction



- State - ORS 469.300(11) “Energy Facility” definition – creates state threshold
- Local: facilities smaller than state “Energy Facility” definition
- Federal: Federal Energy Regulatory Commission (FERC)

Reviewing Agencies

- Includes state agencies, local governments, tribes, federal agencies and others affected by the proposal
- Receive information at least **5 times** throughout the application process.
- Request identification of issues, concerns, standards, permits, conditions, and verification of compliance
- Cost recovery for reviewing agencies
- **SB 259**



Public Stakeholders



- Receive information at least **4 times** during the application process
- Efforts to enhance public participation

EFSC Review Standards

- EFSC Standards, State Law and Local Ordinances other than Local Land Use Regulations
 - Fixed at time the site certificate or amended site certificate is approved
- Local Land Use Regulations – local land use and development ordinances and comp plan provisions required by statewide land use goals
 - Path A - Local government review
 - Path B - EFSC review
 - Fixed at time of original or amended application submittal

Site Certificate Amendments

- Three amendment categories in OAR 345-027-0070(1)
 - Change site boundary or legal description
 - Extend deadlines to begin or complete construction – “General Re-opener”
 - Other amendments – change to language in site certificate or some aspect of the facility
- Other Amendments
 - Transfer
 - Apply subsequent rules - public health and safety

EFSC Process



- Applicant submits a **Notice of Intent (NOI)**
- ODOE issues a **Project Order**
- Applicant submits an **Application (pASC)**
- ODOE deems the application complete
- ODOE issues a **Draft Proposed Order (DPO)**
- **DPO Hearing**
- ODOE issues a **Proposed Order (PO)**
- **Contested Case**
- EFSC issues a **Final Order/Site Certificate**

Notice Of Intent (NOI)

- The NOI is:
 - applicant's conceptual plan
- The NOI is not:
 - a detailed application
 - a complete or final plan
- Notice to public and comment period (#1)



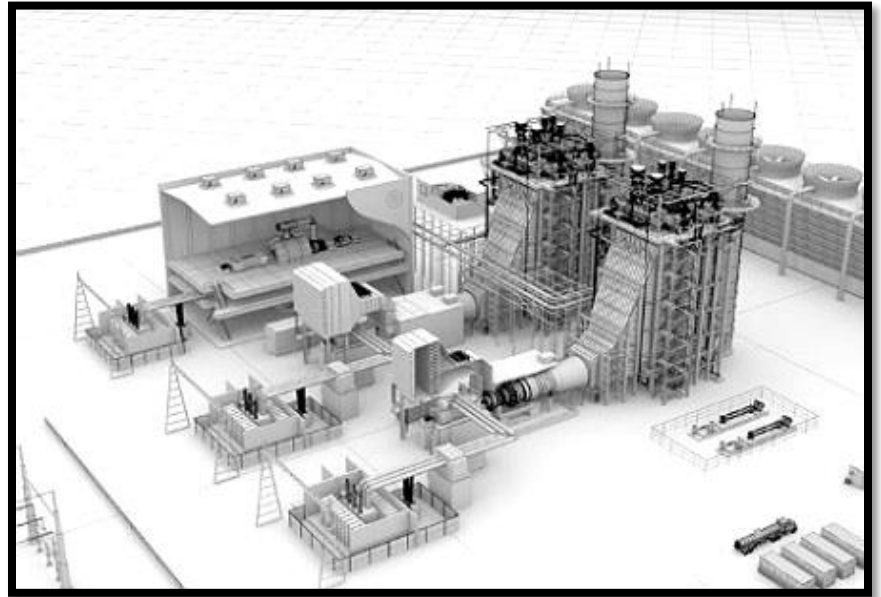
NOI Cont'd



- Memo to reviewing agencies and comment period (#1)
- Reviewing agency responses about what is needed in application
- Optional interdisciplinary team meeting

Project Order

- “Blueprint” for application
 - all Reviewing Agency requirements
 - Council’s application requirements and 16 standards
- Basis for EFSC evaluation and decision
 - Final Order & Site Certificate based on requirements/standards identified in Project Order
- Updated as necessary



Preliminary Application for Site Certificate (pASC)



- pASC reviewed for “Completeness”
- Memo to Reviewing Agencies (#2)
- Request for Additional Information (RAI)

Complete Application (ASC)

- Application ‘Complete’ when
 - “applicant has submitted information adequate for the Council to make findings or impose conditions on all applicable Council standards.”
- Notice of Complete Application
 - Reviewing Agencies (#3)
 - Public (#2) – information meeting



Draft Proposed Order (DPO)



- ODOE recommended findings of fact, conclusions of law and conditions to EFSC on each Council standard
- Incorporates/evaluates all agency comments, recommendations, and conditions
- Notice of issuance of DPO
 - Reviewing Agencies (#4)
 - Public (#3)

Draft Proposed Order Cont'd

- Hearing
 - before Hearing Officer, EFSC or both
 - raise it or waive it
- Council review of DPO
 - staff present DPO and comments received at DPO hearing
 - Council provides comments to department



Proposed Order



- Department converts the DPO into the Proposed Order Including:
 - comments of the Council
 - public comments during the DPO hearing
 - Reviewing Agency consultation
- Issuance of Proposed Order
 - notice to Reviewing Agencies that commented (#5)
 - notice to Public (#4)
- Notice of Contested Case
 - Limited to those who provided comment during the DPO hearing

Contested Case

- If no requests for party status, the Contested Case concludes quickly
- If any person requests party status in the Contested Case, or if the applicant identifies an issue for the Contested Case, the Hearing Officer conducts a full Contested Case proceeding.



Final Order and Site Certificate



- At the conclusion of the Contested Case, Council shall either approve or reject the application
- The Council can either adopt, modify or reject the Proposed Order in its Final Order
- If the Council approves the application, it must issue a Site Certificate along with the Final Order
- Appealable directly to Oregon Supreme Court

Reviewing Agency Action on Site Certificate

- Agencies must issue any required permits, without additional process/requirements
- Site Certificate conditions binding on agencies



Process Improvement



- HB 2105 – 2013 Session
- Annual Work Plan
- Process Improvement

Contact

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