

**BEFORE THE
ENERGY FACILITY SITING COUNCIL
OF THE STATE OF OREGON**

In the Matter of the Application for a Site Certificate) for the Helix Wind Power Facility) _____)	NOTICE OF CONTESTED CASE PROCEEDING
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TO: Persons eligible to request party status under OAR 345-015-0016

On June 17, 2009, the Oregon Department of Energy (ODOE) issued a Proposed Order in the Matter of the Application for a Site Certificate for the Helix Wind Power Facility, as provided in ORS 469.370(4) and OAR 345-015-0230(2). The Proposed Order recommends that the Energy Facility Siting Council (Council) grant a site certificate subject to recommended conditions. A copy of the Proposed Order accompanies this notice. The Proposed Order is also available from the ODOE website (www.oregon.gov/ENERGY/SITING/announce.shtml).

ODOE issues this notice under Council rule OAR 345-015-0014, which provides that following the issuance of a proposed order by ODOE on an application for a site certificate as described in OAR 345-015-0230, ODOE shall issue a contested case notice as described in OAR 137-003-0001. The statutory authority for this contested case is ORS 469.370(5). The Council has jurisdiction over this matter pursuant to ORS 469.300 and 469.320. Particular statutes and rules involved in a contested case hearing on the Proposed Order are listed in Attachment A.

Persons eligible to request party or limited party status in the contested case proceeding must do so by submitting a written request to the hearing officer: Mr. John Burgess, The Equitable Center, Suite 700, 530 Center St. NE, Salem OR 97301-3740.

The hearing officer must receive the request by 5:00 PM on July 2, 2009. If the written request is not received within the time stated, the requesting person(s) will have waived any right to a hearing. The requirements for the information to be included in the request are discussed below.

You must submit your request for party status or limited party status by first class or certified mail. You may submit your request by fax by the deadline, followed by an original copy. The fax number is (503) 585-1006. Your petition must comply with the requirements of OAR 345-015-0016(5) and OAR 137-003-0005(3) discussed below.

You must submit two copies of your request for party status or limited party status to the hearing officer. In addition, please submit one copy of the request to John White, Oregon Department of Energy, 625 NE Marion Street, Salem, OR 97301-3742, (fax: 503-373-7806), and one copy to Elaine R. Albrich, Stoel Rives LLP, 900 SW Fifth Ave, Suite 2600, Portland, OR 97204-1268 (fax: 503-220-2480).

Requirements for Eligibility to Request Party Status or Limited Party Status

You can request party status or limited party status in the contested case proceeding only if you commented on the Draft Proposed Order that ODOE issued on May 5, 2009, by appearing and

commenting at the public hearing held in Helix, Oregon, on May 27, 2009, or by submitting comments in writing by the close of that public hearing.

OAR 345-015-0016(3) provides:

- Only those persons who have commented in person or in writing on the record of the public hearing described in OAR 345-015-0220 may request to participate as a party or limited party in a contested case proceeding on an application for a site certificate.
- 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 hearing, unless the Department of Energy did not follow the requirements of ORS 469.370(2) or (3) or unless the action recommended in the proposed order described in OAR 345-015-230, 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 has not raised an issue at the public hearing 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 at the public hearing that support the person's position on the issue.

Contents of a Petition for Party Status

There are requirements for the content of a petition for party status. OAR 345-015-0016(5) provides:

In a petition to request party or limited party status, the person requesting such status shall include:

- (a) The information required under OAR 137-003-0005(3).
- (b) A short and plain statement of the issue or issues that the person desires to raise in the contested case proceeding.
- (c) A reference to the person's comments at the public hearing showing that the person raised the issue or issues at the public hearing.
- (d) A detailed description of the person's interest in the contested case proceeding and how that interest may be affected by the outcome of the proceeding.

In addition, as required under OAR 137-003-0005(3), a petition to request party status must include the following:

- (a) Names and addresses of the petitioner and of any organization the petitioner represents;
- (b) Name and address of the petitioner's attorney, if any;
- (c) 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;
- (d) 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;
- (e) 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;

- (f) A statement of the reasons why existing parties to the proceeding cannot adequately represent the interest identified in subsection (3)(d) or (e) of this rule.

The hearing officer will decide whether to grant party status based on the above factors and the following factors, as provided under OAR 137-003-0005(7):

- (a) Whether the petitioner has demonstrated a personal or public interest that could reasonably be affected by the outcome of the proceeding;
- (b) Whether any such affected interest is within the scope of the agency's jurisdiction and within the scope of the notice of contested case hearing;
- (c) When a public interest is alleged, the qualifications of the petitioner to represent that interest;
- (d) The extent to which the petitioner's interest will be represented by existing parties.

The applicant, Iberdrola Renewables, Inc., is a party as provided under ORS 469.370(5). ODOE will participate in the contested case with all of the rights of a party as provided under OAR 345-015-0080(3).

Default

If no person requests party status to challenge the Proposed Order, the Proposed Order shall be forwarded to the Council and the contested case hearing shall be concluded. ORS 469.370(6). If a person is granted party status and fails to appear at the hearing, the Council may issue a final order adverse to that person upon making the determinations required by ORS 469.503.

Representation by Counsel

Parties may be represented by counsel. Legal aid organizations may be able to assist parties with limited financial resources.

Date of Pre-hearing Conference

The pre-hearing conference is scheduled for July 20, 2009, at 10:00 A.M. at the Oregon Department of Energy, 625 Marion St. NE, Salem, Oregon.

Failure to raise an issue in the prehearing conference constitutes waiver of that issue in the contested case as provided in OAR 345-015-0083.

Date of Contested Case

The contested case will begin with filing of written testimony. The hearing officer must receive your written testimony by 5:00 p.m. on August 20, 2009. The hearing date and location for the contested case is subject to change by order of the hearing officer.

June 17, 2009

John White
Oregon Department of Energy
Telephone: 503-378-3194
Email: john.white@state.or.us

Attachment A: LIST OF STATUTES AND RULES PURSUANT TO ORS 183.415

OREGON ENERGY FACILITY SITING

Statutes

ORS 469.010
ORS 469.300 to ORS 469.570
ORS 469.590 to ORS 469.619

Administrative Rules

ORAR Chapter 345, Division 1	ORAR 345-022-0020	ORAR Chapter 345, Division 26
ORAR 345-001-0010	ORAR 345-022-0022	ORAR 345-026-0048
ORAR Chapter 345, Division 15	ORAR 345-022-0030	ORAR 345-026-0080
ORAR 345-015-0085	ORAR 345-022-0040	ORAR 345-026-0105
ORAR 345-015-0190	ORAR 345-022-0050	ORAR 345-026-0170
ORAR 345-015-0200	ORAR 345-022-0060	ORAR Chapter 345, Division 27
ORAR 345-015-0210	ORAR 345-022-0070	ORAR 345-027-0020
ORAR 345-015-0220	ORAR 345-022-0080	ORAR 345-027-0023
ORAR 345-015-0230	ORAR 345-022-0090	ORAR 345-027-0028
ORAR 345-015-0300	ORAR 345-022-0100	ORAR 345-027-0030
ORAR 345-015-0350	ORAR 345-022-0110	ORAR 345-027-0050
ORAR Chapter 345, Division 21	ORAR 345-022-0120	ORAR 345-027-0100
ORAR 345-021-0010	ORAR Chapter 345, Division 24	ORAR 345-027-0110
ORAR 345-021-0050	ORAR 345-024-0010	ORAR Chapter 345, Division 29
ORAR 345-021-0055	ORAR 345-024-0015	
ORAR 345-021-0100	ORAR 345-024-0090	
ORAR Chapter 345, Division 22	ORAR 345-024-0590	
ORAR 345-022-0000	ORAR 345-024-0630	
ORAR 345-022-0010		

LAND USE

Statutes

ORS 195.300
ORS 197.646
ORS 197.732
ORS 215.203
ORS 215.213
ORS 215.243
ORS 215.275
ORS 215.283
ORS 215.296
ORS 215.700
ORS 215.710

Administrative Rules

ORAR Chapter 660, Division 4
ORAR 660-011-0060
ORAR 660-012-0065
ORAR Chapter 660, Division 33
ORAR 660-033-0020
ORAR 660-033-0120
ORAR 660-033-0130
ORAR 660-033-0160

Statewide Planning Goals

Goal 3: Agricultural Lands
Goal 13: Energy Conservation

Umatilla County Development Code

UCDC § 152.003
UCDC §§ 152.010 through 152.017
UCDC § 152.018
UCDC § 152.056
UCDC § 152.059
UCDC § 152.060
UCDC § 152.061
UCDC § 152.063
UCDC §§ 152.545 through 152.562
UCDC §§ 152.570 through 152.577
UCDC §§ 152.610 through 152.617
UCDC § 152.767

Umatilla County Comprehensive Plan

Citizen Involvement Element
Agriculture Element
Open Space, Scenic and Historic Areas,
and Natural Resources Element
Air, Land and Water Quality Element
Natural Hazards Element
Recreational Needs Element
Economy of the County Element
Public Facilities and Services Element
Transportation Element
Energy Conservation Element

OREGON DEPARTMENT OF FISH AND WILDLIFE (Habitat Standard, T&E Species Standard)

StatutesORS 496.004
ORS 496.172**Administrative Rules**OAR 635-100-0001
OAR 635-100-0040
OAR 635-415-0005
OAR 635-415-0025

OREGON DEPARTMENT OF AGRICULTURE (T&E Species Standard)

StatutesORS 564.100
ORS 564.105**Rules**

OAR 603-073-0002

OREGON PARKS AND RECREATION DEPARTMENT (Scenic Resources, Archaeology)

StatutesORS 97.745
ORS 358.905
ORS 358.920
ORS 390.805 to ORS 390.925**Administrative Rules**

OAR 736-051-0070

OREGON DEPARTMENT OF STATE LANDS (Removal/Fill Permit)

Statutes

ORS 196.795 to ORS 196.990

Administrative Rules

OAR 141-085-0500 through -0785

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY (Noise)

Administrative RulesOAR 340-035-0015
OAR 340-035-0035

OREGON WATER RESOURCES DEPARTMENT (Water Use)

Statutes

ORS 537.505 to ORS 537.796

Administrative Rules

OAR Chapter 690

OREGON DEPARTMENT OF TRANSPORTATION

Administrative Rules

OAR Chapter 734, Division 55

OREGON DEPARTMENT OF AVIATION

Statutes

ORS 836.530

Administrative Rules

OAR Chapter 738, Division 70

PROTECTED AREAS

StatutesORS 273.581
ORS 390.826**Administrative Rules**OAR Chapter 142
OAR Chapter 635, Division 8

PUBLIC RECORDS

StatutesORS 192.501
ORS 192.502 *et seq.*

FEDERAL RULES

16 U.S.C. 1131 *et seq.*
16 U.S.C. 1271 *et seq.*16 U.S.C. 1531 *et seq.*
43 U.S.C. 1782