

**MINUTES  
ENERGY FACILITY SITE EVALUATION  
COUNCIL OF WASHINGTON**

**June 30, 2004 Special Meeting**  
925 Plum Street S.E., Building 4, Room 308  
Olympia, Washington  
Executive Session - 10 a.m.    Public Meeting 11:30 a.m.

**ITEM 1: CALL TO ORDER**

Chair Luce called the special meeting of the Washington State Energy Facility Site Evaluation Council for Wednesday, June 30, 2004 to order. The purpose for this special meeting is to discuss and take comment on the Energy Facility Site Evaluation Council (EFSEC) costs and billing practices. Clerk called the roll.

**ITEM 2: ROLL CALL**

**EFSEC Council Members**

**Community, Trade & Economic Development**  
**Department of Ecology**  
**Department of Fish & Wildlife**  
**Department of Natural Resources**  
**Chair**

Richard Fryhling  
Hedia Adelsman  
Chris Towne  
Tony Ifie  
Jim Luce

Clerk Mills noted the presence of the Chair and there is a quorum.

**OTHERS IN ATTENDANCE**

**EFSEC STAFF AND COUNSEL**

Allen Fiksdal  
Mike Mills

Irina Makarow  
Ann Essko, AAG

**EFSEC GUESTS**

Karen McGaffey  
Rich Adair (via phone)

Darrel Peeples

**ITEM NO. 3: NORTHWEST INDEPENDENT POWER PRODUCERS COALITION'S  
(NIPPC) LETTERS – EXECUTIVE SESSION**

As allowed under the Open Public Meetings Act (RCW 42.30.110), EFSEC met in a closed Executive Session from 10 a.m. until 11:15 a.m. to discuss with counsel issues raised by applicants and certificate holders regarding costs and billing practices.

**ITEM NO. 4: NORTHWEST INDEPENDENT POWER PRODUCERS COALITION'S (NIPPC) LETTERS – PUBLIC MEETING 11:35 a.m.**

Chair Luce stated that the purpose of the meeting is to discuss EFSEC's costs and billing practices. He noted that the Council has been reviewing its expenditure and billing practices since Fall 2003, and most recently provided information on its funding and billing practices to the Senate Energy Committee. The Council will not discuss any legal issues that were reviewed with the Council's Assistant Attorney General in the Executive Session earlier this morning.

The chair provided background information on the review that the Council is conducting of its fees and charges. General rulemaking began about 3 years ago when Governor Locke directed EFSEC to clarify and provide certainty to the application review/siting process and develop siting standards. EFSEC initiated rulemaking and the cost to date, is approximately \$250,000. Money acquired from BPA and CTED paid a significant portion of the initial stakeholder review process with the balance being paid by EFSEC and certificate holders and applicants. Applicants and certificate holders have expressed concern that they want the Council to limit costs in accordance with RCW 80.50.071 to those charges that are "directly attributable" to application processing and compliance monitoring. While it is EFSEC's position that it has the authority to recover all operating costs from its applicants and certificate holders, based on the expressed concerns the Council has initiated this review to look at how it recovers costs.

Chair Luce continued that it was his assumption that the review would focus on the next biennium (FY 2006-07). Recent correspondence from the Northwest Independent Power Producers Coalition (NIPPC) and other clients has expressed interest in focusing on current costs and specifically, the treatment of non-project related expenses. The chair stated that it is the intent of the Council to have the review examine current operations, in addition to looking for additional funding support in the future. He added that EFSEC has requested that CTED include funding for rulemaking associated with SHB 3141 (CO2 air emissions) and certain other administrative costs as part of the Council's proposed 2005-07 biennial budget. Chair Luce continued that the Council's budget request must first be approved for inclusion in the Governor's budget and then receive legislative approval.

Allen Fiksdal, EFSEC Manager, reported on the options that the Council has been considering following the April 14, 2004 hearing with Senator Morton's committee.

Status Quo – For the past 20 years, EFSEC has been charging all its costs to potential applicants, applicants, or certificate holders. Direct and indirect costs are charged either directly to a specific project or distributed over the current projects by a predetermined formula. Indirect charges cover a number of administrative costs that could be characterized as "ready to serve" or "keeping the doors open" type expenses. Today's meeting will allow for the continued discussion with stakeholders of how EFSEC charges its costs as committed to at the Senate hearing.

State General Fund funding – The Council has requested \$250,000 to cover the CO2 rulemaking and some of its indirect overhead costs. While it is a limited amount, it is considered adequate to

cover the administrative costs that may not be directly related to applicants or certificate holders during the next biennium.

EFSEC understands that the applicants and certificate holders have not had an opportunity to review the general fund request, but expect that they may think it's not adequate and should be expanded to include salaries and other costs for certain activities. Council representatives plan to meet with NIPPC soon to review the budget proposal.

Statutory Change – Another option would be to seek clarification from the legislature on Chapter 80.50 RCW's cost recovery provisions.

The Council has committed to examine its costs and billing practices, in cooperation with stakeholders, and is proceeding with development of a policy on how costs are charged, and exploring alternative funding options.

Chair Luce indicated that he had advised NIPPC, based on information from the Office of Financial Management (OFM), that if their members believe EFSEC had improperly billed them, they could seek redress by filing a claim with OFM, pursuant to the Sundry Claims Act. That claim would be reviewed by OFM's risk management office and forwarded on to the legislature for consideration. He noted that such a claim might be helpful in obtaining legislative clarification on EFSEC funding issues. NIPPC has been made aware of the Council's request for general funds, and has expressed a willingness to support such funding. Litigation would be the last alternative, and from the Council's perspective, is certainly not wished for.

Allen Fiksdal reported that in addition to working with CTED on the request for State General Funds for rulemaking and certain other administrative costs, staff is continuing to work on a policy for "non-attributable work". The draft policy describes the basis for determining both "directly attributable" and "non-attributable work" charges.

Member Tony Ifie requested that discussion be deferred on the policy until members had a chance to look at it. Chair Luce declared that discussion on the proposed policy would be scheduled for the July 6 meeting.

The chair stated that NIPPC's June 16, 2004 letter had specified that if the Council is not able to find alternative funding, it needs to stop activities, that in their opinion, the statute does not allow to be passed on to applicants and certificate holders. In EFSEC's June 23, 2004 response, NIPPC was asked to share its views on which activities should not continue to be financed by EFSEC's applicants and certificate holders. NIPPC has responded that it's up to EFSEC to identify those activities that can be reduced at the present time.

Discussion followed on how EFSEC staff and Council members allocate their time to projects. All time that is directly attributable to applicants or certificate holders is billed to each respective project. Non-attributable costs, such as overhead and training, are distributed (by percentage) over the current client base. Chair Luce noted that letters had been sent to each member agency's director specifying those activities that would be eligible for reimbursement as the workload is expected to decline during this next year. Comments from members indicated that

the time they were charging to EFSEC had gone down over the past year. The chair observed that in the past agencies had absorbed all member costs, except after 10 days of adjudicative hearings. The up side of that practice to clients was it saved them money. The down side to the operation of the Council was that agencies were reluctant to provide representatives that could fully support Council activities, i.e., up to full-time during certain phases of reviewing an application for site certification. Reimbursement of Council members' time has provided a more informed membership that is able to devote sufficient time to Council business.

In response to a question from Karen McGaffey on how staff time was allocated, Allen Fiksdal responded that when work is done on a specific project, time is charged directly to that project. For example, Compliance Manager Mike Mills charges most of his time directly to certificate holder; Siting Manager Irina Makarow charges most of her time to applicants; while Allen and the chair's time is split between projects and the pro-rated generic formula. Administrative staff generally use the generic formula. There are currently nine projects that can be directly charged to and it was noted that there is no general administrative code. Ann Essko stated that she bills specific projects as appropriate and the generic formula is applied to any administrative work.

Allen Fiksdal indicated that the generic formula will be changed effective July 1, 2004, to reflect current assumptions about workload and project status. The new formula will change the project splits that were in effect for the January – June 2004 period. Allen Fiksdal reviewed how travel and training costs are allocated. Almost all travel is charged directly to a project; there is a very small percentage that would be non-project related. Training costs are generally spread using the generic formula percentages. Attending conferences and seminars is beneficial for keeping current in the field and industry, but staff looks at the trade-offs of going or not going on an individual basis. Stakeholders have indicated they recognize the benefit of training, but question how it is charged out against the projects.

### **Next Steps**

Chair Luce indicated that the NIPPC letters had prompted good discussions with several of EFSEC's applicants and certificate holders and with Governor's Office staff on EFSEC costs and billing practices. The Council intends to contact all stakeholders and seek their input on the issues that have been identified.

Allen Fiksdal stated that the next step being considered is to hold a workshop with members and stakeholders to review the 2005-07 biennial budget and the allocation plan. Staff is recommending that the workshop be held in conjunction with the July 6<sup>th</sup> regular Council meeting. This would provide staff with an opportunity to review the assumptions that go into the Council's proposed operational budget for the next biennium and the general fund request, along with additional details on the allocation plan and policy that is being developed. While the budget and policy development activities are separate processes, it was pointed out that they are inter-related. The following points were made during a discussion of the budget and policy development work:

- The request for general funds could be considered a placeholder while discussion on the issues continues;

- CTED and OFM are aware of the ongoing discussions and are aware that the numbers could change;
- Different budget scenarios would be helpful to understand where funds come from and how they are allocated to the various projects/activities;
- The Council needs to look at this from the applicants and certificate holders perspectives – what are you doing for them;
- applicants and certificate holders want predictability and transparency;
- Different approaches to billing should be considered such as a minimum fee per year;
- The Council has certain fixed fees that must be covered and different scenarios simply shift the burden from one project to another; and
- A Site Certificate Agreement has value whether project is active or inactive.

The discussion concluded with the Council committing to the following next steps.

- ✦ Hold a workshop on July 6th to review the Council's budget and the basic assumptions for the base state Carry Forward Level and the Cost Allocation Plan;
- ✦ The discussion of where funding comes from and alternative funding sources will continue over the next several months;
- ✦ The chair will take the lead in setting up meetings with stakeholders and legislative staff to continue to get their input;
- ✦ Staff will identify timelines for completing the budget/policy tasks;
- ✦ The Council will develop a subcommittee to work with interest groups; and
- ✦ The Council will share the results of this effort with the Senate and House energy committees in September.

#### **ITEM NO. 5: ADJOURN**

The meeting was adjourned at 1:01 pm.