



STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

PO Box 43172 • Olympia, Washington 98504-3172

February 8, 2005 Minutes

1. CALL TO ORDER

Chair Luce called the February 8, 2005 monthly meeting to order at 925 Plum Street S.E., Building 4, Room 308, at 1:35 p.m.

2. ROLL CALL

Council members present were:

Richard Fryhling	Department of Community, Trade and Economic Development
Hedia Adelsman	Department of Ecology
Chris Towne	Department of Fish and Wildlife
Tony Ifie	Department of Natural Resources
Tim Sweeney	Utilities and Transportation Commission
Patti Johnson (via phone)	Kittitas County Representative
Jim Luce	Chair

A quorum was present to conduct business.

Staff in attendance were:

Allen Fiksdal – EFSEC Manager, Mike Mills – Compliance Manager, Irina Makarow – Siting Manager, Mariah Laamb – Council Secretary, Ann Essko – Council Attorney, Adam Torem – ALJ (Kittitas & Wild Horse) & Shaun Linse (court reporter).

Guests in attendance were:

John Lane – Counsel for the Environment, Darrel Peeples – Attorney (Kittitas & Wild Horse projects), Mark Anderson & Tony Usibelli – Community, Trade and Economic Development, Katy Chaney – URS Corp, Karen McGaffey – Attorney (Satsop), Scott Williams – Puget Sound Energy, Tim McMahan – Attorney (Co-counsel Wild Horse), Debbie Strand – Economic Development Group of Kittitas County, Curt Leigh – Dept. of Fish & Wildlife, Matt Steuerwalt – Office of Financial Management, Kevin Smith – Invenergy, Mark Peters & Grady Allen – Duke Energy North America

Guests attending via phone:

James Hurson – Assistant Prosecuting Attorney (Kittitas County), Darryl Piercy – Kittitas County Planning Department, Troy Gagliano – Renewable Northwest Projects, Chris Taylor – Zilhka, David Bricklin – Attorney (Friends of Wildlife & Wind Power), Ed Garrett – Residents Opposed to Kittitas Turbines, Mot Hedges – Energy Northwest, Jeff Slothower – Attorney (Steven Lathrop)

3. ADOPTION OF PROPOSED AGENDA

Chair Luce asked for any changes to the agenda; with one addition, a project update for Wallula Power, the proposed agenda was adopted.

4. MINUTES

The minutes for January 11, 2005, were considered for approval by the Council.

Motion: To accept the minutes from the January 11, 2005 meeting as prepared. Chris Towne made the motion and Tony Ifie seconded the motion. The minutes were approved unanimously.

Several Council members voiced their approval of the new minutes format.

5. WILD HORSE WIND POWER PROJECT

A pre-hearing conference was held at WSU Cooperative Extension Building 4, Conference Room 308, 925 Plum Street, Olympia, Washington from 1:35 p.m. – 2:15 p.m. The purpose of the prehearing conference was for the Council to consider amendment of the Hearing Guidelines in this matter and notice a status conference. Council Order No. 808, Prehearing Order No. 5, issued on February 10, 2005, summarizes this prehearing conference. The transcript of the conference is available for review at the EFSEC office. Order No. 808 is also available for review at the EFSEC office, and is posted on the EFSEC web site at <http://www.efsec.wa.gov/wildhorse/adj/adj.html#orders> .

Chair Luce called a 10 minute recess after the pre-hearing conference was completed. The Council meeting resumed at 2:25 p.m.

6. SATSOP COMBUSTION TURBINE PROJECT

<i>Duke / Invenergy SCA Transfer</i>	<i>Mark Peters, Duke Energy</i>
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Mark Peters from Duke Energy North America (DENA) informed the Council that in December 2004, DENA entered into an agreement with Invenergy Grays Harbor LLC (Invenergy) whereby Invenergy would purchase the Satsop Combustion Turbine (CT) Project. Kevin Smith, Senior Vice President at Invenergy, confirmed his company's intent to purchase the Satsop CT Project and transfer the Site Certificate Agreement (SCA) to Invenergy. He gave an overview of Invenergy for the Council.

Invenergy is a developer, owner and operator of power generation projects throughout North America. Mr. Smith explained that they have experience and a proven management team with more than 200 years of collective experience in energy and power generation. They are focused on the development and acquisition of natural gas, coal and renewable power projects with a focus on wind energy. Invenergy is partnered with the private equity firm GTCR Golder Rauner LLC. GTCR has more than \$6.0 billion under active management. The Invenergy management team has successfully developed and operated more than 15,000 MW in power generation projects – natural gas, coal, waste fuels and wind. They are headquartered in Chicago with offices in Denver, Washington D.C., Milwaukee and Toronto. Michael Polsky is the company

president and CEO and former President & founder of SkyGen Energy, President & founder of Indeck Energy Services and member of the Board of Directors of Calpine Corporation.

Mr. Smith stated Invenergy has a strong financial team including Polsky Energy Investors LLC, GTCR Golder Rauner LLC, and third party lenders and investors. In acquiring the Satsop CT Project, Invenergy believes that pursuant to EFSEC's SCA transfer rules, it can demonstrate organizational, financial, managerial and technical capabilities to comply with the terms and conditions of the original site certificate agreement, including Council approved plans for termination of the plant and site restoration.

<i>Transfer Request Review Process/ Special Meeting February 23, 2005</i>	<i>Mike Mills, EFSEC</i>
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In a letter dated January 18, 2005, Duke Energy North America (DENA) requested EFSEC approval of a transfer of control of the Satsop CT Project SCA from Duke Energy Grays Harbor (DEGH) to Invenergy Grays Harbor (IGH). If the transfer is approved, Invenergy would also change the name of the certificate holder from Duke Energy Grays Harbor to Invenergy Grays Harbor; DENA would be released from any and all obligations under the SCA and related plans; and DEGH and Energy Northwest (ENW) would be removed from the SCA.

The rules applicable to the transfer request were reviewed for the Council. In WAC 463-66-100, a transfer of a certificate holder must meet requirements of WAC 463-60-015 and 463-60-075 in order for the Council to approve a transfer. In subsection (4), it states the Council may grant approval if it determines the following;

a) WAC 463-60-015 states that "The applicant shall provide an appropriate description of the applicant's organization and affiliations for this proposal."

Invenergy has provided a corporate and financial overview and summary for the Council in written form that was distributed at today's meeting.

b) WAC 463-60-075 states that "The applicant shall set forth insurance, bonding or other arrangements proposed in order to mitigate for damage or loss to the physical or human environment caused by project construction, operations, abandonment, termination, or when operations cease at the completion of a project's life. The application shall describe the applicant's commitment to the requirements of chapter 463-72 WAC, Site restoration and preservation."

Under the terms of the DENA-IGH Agreement, IGH has agreed to provide financial assurances for site restoration to replace the DENA guarantee.

Council rules provide that it may secure the assistance of a consultant to review a proposed SCA amendment. EFSEC staff will recommend that the Council hire an independent consultant to review the financial assurances requirements that Invenergy must satisfy. Staff has identified a consulting firm that can provide such an analysis within 5-7 days, which fits within the timelines of bringing the DENA-IGH agreement to closure. Getting the consultant's report expeditiously will allow the Council to make a timely determination on this request.

Once the SCA is transferred, Invenergy intends to secure long term power contracts and then complete the project and begin operations within a few years. Invenergy has a deadline of late March 2005, to complete their purchase agreement with DENA and is requesting that the Council determine if Invenergy meets the criteria to be able to approve a transfer of ownership and the license (SCA) from Duke Energy North America to Invenergy by that time.

Mr. Smith explained the corporate structure of the companies involved in the proposed transfer of the SCA. Invenergy Investment Company LLC is the parent company and Invenergy Grays Harbor LLC (IGH) is a subsidiary company. Duke Energy North America (DENA) is the

parent company of Duke Energy Grays Harbor (DEGH), and IGH will purchase DEGH. Invenergy Investment Company LLC is the financial support for IGH.

Staff recommends that the Council concur with the review process initiated with the issuance of a public notice of the proposed transfer of control/amendment request from Duke Energy; issuance of a SEPA Determination of Nonsignificance; and scheduling of an informational public comment hearing on February 23, 2005. The Council’s review of Duke Energy’s request will address the requirements of WAC 463-66, to include a review of the financial qualifications of Invenergy, and that as the certificate holder, they could continue to be bound by the SCA and related plans.

Motion: Concur with staff recommendation and approve hiring a consultant for up to \$5,000. Tim Sweeney made the motion and Tony Ifie seconded the motion. The motion was approved unanimously.

Councilmember Towne clarified that the new rules the Council just adopted in December 2004 will apply to this amendment to the Satsop SCA. Any legal questions will be reviewed by Ann Essko, legal counsel for EFSEC.

7. PROJECT UPDATES

COLUMBIA GENERATION STATION

<i>Operations</i>	<i>Mot Hedges, Energy Northwest</i>
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Mot Hedges of Energy Northwest summarized the letter sent to the Council on February 7, 2005, explaining the procedures intended to perform a chemical cleaning of the main condenser for scale removal in April 2005. The process will be similar to the cleaning done in 2003, where discharge to the river will be secured and the cleaning agent added. The cleaning process will take 1-2 hours and other treatments will be added to protect against copper metal corrosion and pH, calcium, copper and zinc will be monitored on a regular basis. If copper concentration is in excess of the discharge limits, the circulating water will be pumped to the WNP-4 service water pond, using prestaged temporary pumps and piping. They will assure that the circulating water and any water stored in the service water pond meets all the conditions for discharge before discharge to the river is initiated. Following treatment of any water pumped to the WNP-4 service water pond, that water will be pumped back to the circulating water basin at Columbia or directly to the blowdown line.

This process is will remove the scale in the main condenser; part of a 2-year cycle of condenser cleaning; and this also helps loosen debris to make mechanical cleaning easier; and restore power production by up to 4 MW.

WNP-1

<i>1/4 Offsite Environmental Mitigation</i>	<i>Mike Mills, EFSEC</i>
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On Monday, February 7, Mike Mills and Councilmember Richard Fryhling met with each of the Benton County Commissioners individually to discuss the WNP-1/4 offsite environmental mitigation activities and ideas for projects in Benton County. Each commissioner shared their differing ideas of how money could be spent in Benton County, but the general consensus was positive, with strong support for the Badger Mountain property acquisition that the Council is close to finalizing with the county.

Staff reviewed the proposed Badger Mountain Acquisition Agreement between EFSEC and Benton County. This agreement will provide for the transfer of funds to Benton County from

EFSEC in the amount of \$485,000.00, to be applied to the purchase of the Badger Mountain property. The County has agreed to contribute \$25,000.00 toward the purchase price; with the City of Richland contributing \$100,000.00, and Friends of Badger Mountain contributing the final \$75,000.00, towards the total purchase price of \$685,000.00. The property consists of 574-acre parcel on Badger Mountain to be maintained as open space/recreational use, with Benton County as the sole owner and responsible in perpetuity for operation and maintenance.

Staff recommends that the Council authorize the chair to execute the proposed agreement between EFSEC and Benton County regarding the acquisition and preservation of the Badger Mountain property, subject to satisfactory resolution of any contractual or legal issues that arise during the review of the terms and conditions by EFSEC and county counsel and staff.

Motion: To approve the staff recommendation. Hedia Adelsman made the motion and Tony Ifie seconded the motion. The motion was approved unanimously.

The subcommittee will meet soon to review other projects that may be considered for future funding.

CHEHALIS GENERATION FACILITY

<i>Operations</i>	<i>Mike Mills, EFSEC</i>
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Mike Mills reported that during the month of January 2005, the Chehalis Generation Facility operated about 50% of the time due to lower power prices and higher gas prices, according to Duncan McCaig, plant manager. Chehalis Power is continuing to monitor noise at the site and make improvements as needed. A site visit will be planned for late March, due to Council business with the Wild Horse adjudicative hearings earlier in the month.

WALLULA POWER PROJECT

<i>Project Update</i>	<i>Mike Mills, EFSEC</i>
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Staff received notice today that Competitive Power Ventures will be sending a letter to the Council requesting termination of the Wallula Power Project Site Certification Agreement. At this point, there are some funding issues to be reconciled with the Certificate Holder and staff will discuss any other outstanding issues and report to the Council outlining Competitive Power Venture’s complete request once staff receives their letter.

8. EFSEC RULES

<i>Discussion of Continuing the Review of WAC 463 Sections</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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EFSEC Manager Allen Fiksdal presented a list of rules that were identified but not amended in the 2004 overall rule change process for possible review sometime in the future. They include rules relating to expedited processing; removing redundancies from the EIS requirements and other processes; Land Use Consistencies; SCA amendments and transfers; ex-parte issues; consultants and others. Council members discussed the need for reviewing these rules to continue the discussion of EFSEC operational and administrative processes.

Chair Luce requested Councilmember Chris Towne head up a subcommittee on reviewing these rules, with Hedia Adelsman and Jim Luce as participants. He asked that the Council wait to address Land Use Consistency issues until after the completion of the Wild Horse and Kittitas Valley Wind Power projects since land use issues may be part of the potential adjudicative hearings. Chris Towne agreed to outline a preliminary work plan.

9. LEGISLATION TRACKING

<i>Update on Proposed Legislation</i>	<i>Allen Fiksdal, EFSEC Manager</i>
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Allen Fiksdal briefed the Council on the status of about a dozen House and Senate bills of interest this session. SHB 1020, regarding electrical transmission, may affect EFSEC. Others he is watching are HB 1177, establishing a permitting bill of rights, a few bills related to public disclosure, and SHB 1000 that allows fax and electronic mail notice of special meetings. A new bill, SB 5690, establishes a joint task force on siting essential public facilities; a related bill, SB 5121, creates an airport siting council that appears very similar to EFSEC. He is monitoring all of these bills and will keep the Council informed of important changes.

10. CHAIR'S REPORT

Chair Luce reported that Steve Wright, the Bonneville Power Administration Administrator called him thanking EFSEC for the changes the Council approved to the WNP-1/4 site restoration plans saving taxpayers directly \$7 million and leveraging another \$5.5 million.

Chair Luce expressed appreciation to Council and staff for the changes to EFSEC rules and procedures and other accomplishments of the past 3 ½ years in implementing the recommendations in the 2001 Charlie Earl report. He would like the Council to address items remaining from the report and suggested that a retreat be held this spring to focus on future goals.

11. OTHER

Allen Fiksdal asked the Council to consider if there would be a need to cancel or reschedule the March 8 Council meeting since they will be in Ellensburg with the Wild Horse adjudicative hearings. The Council indicated that they would wait until after the February 23, 2005, Satsop public meeting to determine if any additional items relating to the Satsop SCA transfer request would make a March 8 meeting necessary, before making a decision on cancellation.

Irina Makarow provided an update regarding the Starbuck Power Project. In March of 2003, the Starbuck application review was suspended with a deadline of until March 11, 2005 for the Applicant to indicate its intent to proceed with this Application. The Council will need to consider whether to grant another extension or re-initiate review of the project. This action will be brought to the Council at its April 12, 2005 monthly council meeting.

12. ADJOURN

Chair Jim Luce determined all business that was scheduled for today had been conducted and adjourned the meeting at 4:05 p.m.