



STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL
PO Box 43172 • Olympia, Washington 98504-3172

June 3, 2008 Special Meeting Minutes

1. CALL TO ORDER

Chair Jim Luce called the June 3, 2008 special meeting to order at 350 N. Market Blvd, Chehalis, at 7:02 p.m.

2. ROLL CALL

Council members present:

Jim Luce	Chair
Dick Fryhling	Community, Trade & Economic Development
Jeff Tayer	Department of Fish and Wildlife
Judy Wilson	Department of Natural Resources
Hedia Adelsman	Department of Ecology

Dick Byers (excused)

Utilities and Transportation Commission

Staff in attendance:

Allen Fiksdal - EFSEC Manager, Jim LaSpina - EFS Specialist, Kyle Crews - AAG, AGO and Tammy Talburt, Administrative Assistant

Guests in attendance:

Stacey Custers - PacifiCorp, Mike Jenkins - PacifiCorp, Rob Averill - Lewis County Commissioner, Mike Gwyther - Chehalis Power, Rob Smith - Chehalis Power, Mark A. Millen, Nicola Templeton - K & L Gates, Liz Thomas - K & L Gates, Glenn Carter - Deputy Prosecuting Attorney, Karen McGaffey - Perkins Coie, and Aaron Vantuel - Chronicle

3. PacifiCorp Request

Chair Jim Luce informed the audience that the purpose of the hearing was to hear public comments on the change of ownership of the Chehalis Generation Facility, with PacifiCorp replacing Chehalis Power as the permittee and facility owner.

Stacey Custers, Director of Origination for Pacific Energy, presented the Council with information on PacifiCorp's proposal to transfer the Site Certification Agreement (SCA) for the Chehalis Generation Facility. Ms. Custers presented the Council with the following facts about the Chehalis Generation Project: The plant has been operating commercially since October 2003; it is a 520 megawatt gas-fired combined cycle facility; water and sewer is provided to the site by the City of Chehalis; the project has all required permits, interconnects to the BPA Napavine substation, and has 17 employees. Ms. Custers noted that PacifiCorp serves six states; Washington, Oregon, California, Idaho, Utah and

Wyoming. PacifiCorp has three divisions, Pacific Power, Rocky Mountain Power, and PacifiCorp Energy, employs 6500 people and provides 1.7 million customers with electricity. PacifiCorp is wholly owned by MidAmerican Energy Holdings Company.

Mr. Mike Jenkins, Assistant General Counsel for the Energy Division, noted PacifiCorp's mission is to safely and efficiently generate and market electricity with environmental respect for our customers. The core values PacifiCorp incorporates on all levels are the Six Pillars of Excellence; Customer Service, Employee Commitment, Financial Strength, Environmental Respect, Regulatory Integrity, and Operational Excellence.

Mr. Jenkins said PacifiCorp holds environmental Respect very high on its list of standards. The company's view of respect is Responsibility, Efficiency, Stewardship, Performance, Evaluation, Communication and Training. Greenhouse Gas fits into that environmental respect. He said the Chehalis Generation Facility Site Certification Agreement sets a Carbon Dioxide (CO₂) baseline of 1.8 million tons per year and meets Washington's new greenhouse gas (GHG) performance standards. He also said that PacifiCorp has no plans to operate the facility above the baseline and noted that any GHG emissions above the baseline would require mitigation.

Mr. Jenkins said TNA Merchants Projects, Inc. currently owns 100% of the membership interests in Chehalis Power Generating, LLC which, in turn, owns the Chehalis Generation Facility. At closing, TNA will convey its ownership interests in Chehalis (LLC) to PacifiCorp. PacifiCorp will immediately merge Chehalis (LLC) into PacifiCorp. The net result is that PacifiCorp will own the Chehalis Generation Facility and will operate it like its many other generating facilities. Mr. Jenkins noted the transaction will close after all approvals have been received which is currently anticipated by late summer 2008. He said EFSEC's approval is one of several approvals required.

4. Public Comments

Chair Luce asked if there was anyone in the audience who wished to provide public comment on PacifiCorp's request to transfer the Chehalis Generation Facility Site Certification Agreement. No one provided comment.

Chair Luce stated that the Site Certification Agreement was approved prior to the CO₂ legislation that passed this last year and wondered to what extent if any does the current certificate holder mitigate for CO₂. Ms. Liz Thomas, K & L Gates, reported that the certificate holder has an obligation, as PacifiCorp mentioned, to mitigate to the extent that the emissions exceed 1.8 Million tons per year. She noted that the law Chair Luce was referring to was passed after the site was certificated and after the SCA holder expanded the plant to the current size. She said that when the certificate holder requested the amendment to increase the size of the facility, the CO₂ mitigation requirement was increased to match the incremental increase to the plant. She also noted that the mitigation plan as approved by EFSEC calls for mitigation based on actual emissions, and said that to date the plant has not produced enough CO₂ to meet the requirement of the project's CO₂ mitigation plan.

Chair Luce posed the following question to legal counsel "Does the Council have any authority or discretion to change as a condition of transfer, the level of CO₂ mitigation to support existing law?" Chair Luce encouraged both Chehalis Power and PacifiCorp to look closely at this issue. Chair Luce noted that since the SCA was granted the legislature has amended the law and it is important to know what authority the Council has to request the applicant to mitigate consistent with the CO₂ mitigation law that is currently in effect. Chair Luce requested an answer be provided before action is taken in this matter at the next Council meeting on June 10th.

Mr. Allen Fiksdal, EFSEC Manager, reminded the Council there are two issues to PacifiCorp's request: (1) approve the transfer of the Site Certificate Agreement to PacifiCorp

pursuant to WAC 463-66-100 and (2) terminate the guaranty that was issued by TNA Merchant Projects to secure Chehalis Power's site restoration obligations under the SCA. PacifiCorp is asking for relief from the letters of credit, that the site restoration become a general obligation of the company.

Council member Hedia Adelsman, Department of Ecology, requested clarification of the ownership of Chehalis Generation Facility. Ms. Thomas clarified the ownership for the Council as follows: TNA Merchants Projects Inc. is the parent company of Chehalis Power Generating LLC and it holds all the membership interests in that LLC and TNA Merchants Projects Inc in turn is owned by Suez North America, all within a corporate family. Council member Adelsman wanted to know if the 1.8 million tons was metric tons. Ms. Thomas stated that she would gather the information and forward it to the Council.

5. Adjourn

Chair Luce adjourned the hearing at 7:20 pm.