



## STATE OF WASHINGTON

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

**August 11, 2009 Special Meeting Minutes**

### **1. CALL TO ORDER**

Chair Jim Luce called the August 11, 2009 Special meeting to order at 905 Plum Street S.E., Room 301, at 12:00 p.m.

### **2. ROLL CALL**

#### **Council members present were:**

Jim Luce	Chair
Dick Fryhling	Community, Trade & Economic Development
Jeff Tayer	Department of Fish and Wildlife
Dick Byers	Utilities and Transportation Commission
Hedia Adelsman	Department of Ecology

#### **Staff in attendance were:**

Allen Fiksdal – EFSEC Manager, Stephen Posner – Compliance Manager, Jim La Spina – EFS Specialist, Kyle Crews - AAG AGO, and Tammy Talburt - Administrative Assistant.

#### **Guests in attendance were:**

C. Robert Wallis – EFSEC Consultant, Mark Anderson – Department of Commerce, Tim McMahan – Stoel Rives, Darrel Peeples – Attorney, Joy Potter – Horizon Wind, Arlo Corwin – Horizon Wind, Josh Mathis – Horizon Wind, Andrew Young – Horizon Wind, Todd Gatewood – Grays Harbor Energy, and Chris Towne.

### **3. Kittitas Valley Wind Power Project Site Certification Agreement Amendment**

Council member Tayer requested a short review of past points of contention for his benefit and other council members not present for the initial deliberations of Kittitas Valley Wind Power Project (KV). Chair Jim Luce provided a short history of the case. Chair Luce noted several issues of which most notably were viewscape, looming factor, potential property values, and setbacks. He said that during the KV deliberations the Council deliberated back and forth on setbacks to avoid the looming factor. The only testimony concerning setbacks that was presented in the case was that at four times the tip height the "looming" effect diminished. Based on that un-refuted testimony the Council recommended to the Governor an approval with setbacks at four times the tip height. Chair Luce also noted that the Governor remanded back to the Council to review setbacks so there would be less impact on non-participating landowners.

Chair Luce asked the other members to consider the Council's role, whether the Council should consider individual property rights, or disputes between the property

owner and the applicant. Council member Byers stated that he didn't believe that was the role of the Council, but that the question should be whether or not the amendment is consistent with the original Site Certification Agreement and the original SCA establishing a micro siting provision. He noted that the applicant has contended that the actions they have taken to reconfigure the project are consistent with that micro siting provision. The Council needs to figure out if the amendment before the Council is consistent with the action the Council has already taken and whether the micro siting applies in a totality sense or a particular sense.

Council member Byers noted that the applicant argues that in its "response to comments" that micro siting and setback provisions should be applied in an aggregate sense. But, the provision says "...**For each** turbine located within 2,500 feet of a non-participating landowner's existing residence, micro-siting determinations shall give highest priority to increasing the distance of **the turbine** from that non-participating landowner's residence, even beyond the minimum four times height ..." Council member Byers stated that the language as read doesn't lend itself to an aggregate siting method. There is no direction in the Governor's letters for any particular reduction or increase in setbacks. There is no mention of the 2500 feet as a standard; the Governor's remand is that the Council consider this issue. The Council did in fact through its process issue an order on remand, which included the following statement on page 3 of Council Order No. 831 "EFSEC has considered the purpose behind the Governor's directive to reconsider the originally recommended setbacks and determined that, **where possible**, the location of individual turbines should reflect the highest possible **consideration** of the impact on non-participating landowners' existing residences." The Order continues to discuss the process of micro-siting. There isn't any presumption either in the Governor's letters or the Council's Order that it would be possible in every case to site turbines farther away than four times tip height.

Chair Luce stated that the Council must be consistent with its prior order, to determine whether the applicant has on a turbine by turbine basis determined whether a setback in excess of four times tip height is possible. The Council should not presume that in all cases that the setback is either possible or necessary. The facts speak for themselves. There is one residence with two turbines, one is nearer and one is further way than in the original configuration. The aggregate setbacks for that residence are greater in the amendment reconfiguration. The applicant has provided the Council with evidence for why they have had to move the turbines.

Three different sized turbines were reviewed during the course of EFSEC's review of the Project. These ranged from 260 foot (1.3 MW) to 410 foot (3.0 MW). In the final EIS two turbines were assessed; a 330 foot 1.5 MW and a 410 foot 3.0 MW turbine. Horizon's final layout for the 65 turbines was based on the 330 foot turbines, thus setbacks were based on 4X the tip height of the 330 feet (the Site Certification Agreement also allowed turbines that were a maximum of 410 feet). This amendment request and the layout proposed is based on the 410 foot 3.0 MW turbines, resulting in increases in the distance from transmission lines and residences because of the 4x tip height requirement.

Council member Byers stated that he believes the applicant has fulfilled the obligation to look at each turbine and the nearest residence, the applicant's constraints and when possible has given the highest priority to increasing the distance. In the case of the other residence, when looking at the map there were originally five turbines that were within 2500 feet of existing residences. Under the reconfiguration there are two turbines within 2500 feet. Three turbines were entirely removed. The locations of the remaining two turbines are constrained by all of the setback conditions including the

setback from existing residences. The remaining two turbines are outside the four times tip height. Council member Byers concluded from the information presented that the applicant has fulfilled the obligation to look at each individual turbine. This does not mean that every turbine can be moved to be further than 4 times tip height away. He concluded that the applicant has complied with the micro-siting provision in the SCA.

The Council by roll call vote approved the proposed result in concept but returned the draft to Council Staff to revise the draft language to conform with discussions at the meeting, to be considered for adoption at a later special meeting called for the purpose of reviewing and approving the draft.

#### **4. ADJOURN**

The meeting was adjourned at 1:13 pm.