

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of
Application No. 2002-01

BP WEST COAST PRODUCTS, LLC.

BP CHERRY POINT COGENERATION
PROJECT

PREHEARING ORDER NO. 3
COUNCIL ORDER NO. 780

ORDER ON MOTION OF THE
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION TO
WITHDRAW NOTICE OF INTENT TO
PARTICIPATE AS A PARTY

Nature of the Proceedings

On June 10, 2002, BP West Coast Products, LLC (herein "BP" or the "Applicant"), submitted application No. 2002-01 to the Washington State Energy Facility Site Evaluation Council (EFSEC or Council) to construct and operate the BP Cherry Point Cogeneration Project, a 720-megawatt natural gas-fired combustion turbine electrical cogeneration facility. The proposed BP Cherry Point Cogeneration Project will be located within Whatcom County, adjacent to the BP oil refinery and near the community of Birch Bay. Associated with the Project will be an approximately one mile electrical transmission line and a 1,400-foot natural gas pipeline. The siting of the transmission line is under the jurisdiction of the Bonneville Power Administration (BPA).

EFSEC and BPA are conducting an environmental review of this Project and have issued a draft Environmental Impact Statement (DEIS) for public comment under the Washington State Environmental Policy Act (SEPA), and the National Environmental Policy Act (NEPA). EFSEC will also conduct an examination of the project through a formal adjudicative proceeding.

Procedural Setting

On September 18, 2002, the Council issued a Notice of Intent to Hold Adjudicative Proceeding and Notice of Opportunity and Deadline to File Petitions for Intervention by October 22, 2002, Applicant's Objections or Response by October 29, 2002, and Notice of Intent to Hold Prehearing Conference on November 5, 2002, with parties replies to the responses of Applicant to Petitions for Intervention to be submitted orally at the first prehearing conference. The Washington State Utilities and Transportation Commission (WUTC) submitted a timely Notice of Intent to Participate as a Party.

Following consideration of petitions and oral arguments received, Council Order No. 773, Prehearing Order No. 1, Granting, on Condition, Petitions for Intervention; and Adopting Hearing Guidelines granted party status to the WUTC, pursuant to RCW 80.50.030(3) (a)(iv) and WAC 463-30-050. Pursuant to WAC 463-30-410, the Council limited the WUTC in this matter to issues of safety and concerns about design, construction, operation and maintenance in compliance with state and federal rules, regulations and statutes, as such issues generally fall within the WUTC's jurisdiction in Washington State.

On July 23, 2003, WUTC, through its legal counsel, Sally G. Johnston, Senior Assistant Attorney General, moved to withdraw as a party in these proceedings upon the Motion of Washington Utilities and Transportation Commission to Withdraw Notice of Intent to Participate as a Party.

On September 9, 2003, by notice to all parties, the Council provided the opportunity to all parties to this matter to submit a response to this Motion. No responses were received.

Order

Now, therefore, EFSEC, having considered the Motion, above set out, and the pertinent statute and rules, has determined that the Motion of WUTC is appropriate, in accordance with the statute and rules and should be granted; therefore, the Motion of WUTC is hereby granted and WUTC is hereby granted permission to withdraw its Notice of Intent to Participate as a Party to this proceeding. The WUTC may request leave of the Council to again participate as a party if BP resubmits or modifies its application and the scope or nature of the project changes. In exercising its discretion with regard to such a request by the WUTC, the Council will consider whether the request will unduly delay the proceedings or prejudice the rights of the parties, and whether good cause for granting the request has been shown.

Notice to Parties

Any objection to the provisions of this order must be filed within ten days after the date of mailing of this order, pursuant to WAC 463-30-270(3). Unless modified, this prehearing conference order shall control further proceedings in this matter.

DATED at Olympia, Washington and effective this 13th day of October, 2003.

WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL.

By

_____/s/_____
James O. Luce
EFSEC Chair