

**BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL**

In the Matter of:
Application No. 2003-01

SAGEBRUSH POWER PARTNERS, L.L.C.

KITTITAS VALLEY
WIND POWER PROJECT

PREHEARING ORDER NO. 16

COUNCIL ORDER NO. 801

ORDER ON POST-HEARING
SCHEDULE OF EVENTS

Procedural Setting: On Tuesday, August 10, 2004, the Council convened a prehearing conference at which it granted the *Applicant's Motion to Continue* the commencement of the adjudicative hearing from Monday, August 16, 2004, to Monday, September 27, 2004. At a prior prehearing conference held on Monday, July 19, 2004, the Council had discussed a potential post-hearing briefing schedule. Given the six-week postponement of the adjudicative hearing, the Council now wishes to advise all Parties that it intends to forward its *Recommendation to the Governor* regarding this Kittitas Valley Wind Power Project to Governor Locke prior to the end of December 2004. Therefore, in order to accommodate this goal, this *Order* sets out a post-hearing schedule of events.

Post-Hearing Briefs. Post-hearing briefs are mandatory for all Parties to the proceeding. All Parties shall submit their post-hearing briefs not later than 5:00 p.m., Pacific Time, on the following dates:

Applicant's Post-Hearing Brief	October 29, 2004
Other Parties' Response Briefs	November 12, 2004
All Parties' Reply Briefs	November 19, 2004

Electronic filing with EFSEC and electronic service upon the other Parties is expressly permitted; however, hard copies in the number required by the Hearing Guidelines (Appendix 1 to Council Order No. 777) must be postmarked or actually delivered to EFSEC and all other Parties not later than the submission deadlines noted above.

The Applicant's post-hearing filing shall include: 1) a post-hearing brief with additional legal argument in support of the *Request for Preemption* as well as in support of the proposed Site Certification Agreement (SCA); 2) be in the form of a proposed SCA meeting all of the requirements of Revised Code of Washington (RCW) 80.50.100(1); and 3) a proposed Council Order with Findings of Fact and Conclusions of Law and an Order Recommending Action to the Governor.

Parties' response briefs should contain legal arguments in support of or in opposition to the *Request for Preemption*; in support of or in opposition to the Applicant's proposed *Recommendation to the Governor*; in support of or in opposition to the proposed SCA; and may also address specific conditions that a Party seeks to have contained in the SCA in the event EFSEC chooses to make a favorable *Recommendation to the Governor* for this Project.

Issuance of Final Environmental Impact Statement (FEIS). In accordance with Washington Administrative Code (WAC) 463-47-060(3), the FEIS will not be issued until *after* the adjudicative hearings have been completed. EFSEC intends to issue the FEIS on this Project on or before Monday, November 29, 2004. In order to allow additional time for councilmember review prior to the commencement of deliberations, all members of the Council will receive an electronic copy of the final draft of the FEIS on or about November 12, 2004, simultaneous with its submission to the Washington state Department of Printing. However, EFSEC deliberations on the Project shall not begin until the FEIS has actually been published and made available to the public. In accordance with WAC 197-11-460, the Council will not make any final determinations regarding the Project until at least seven (7) days have elapsed after issuance of the FEIS.

Issuance of Council's *Recommendation to the Governor*. The Council intends to consider and act upon its *Recommendation to the Governor* at an open public meeting to be held in Ellensburg, Washington, on Monday, December 13, 2004. At this meeting, the Council intends to discuss the determinations addressed in its *Recommendation to the Governor* and the underlying rationale for each of these decisions. Parties and the public will be notified of the exact date, time, and location of this meeting.

Requests for EFSEC to Reconsider its *Recommendation to the Governor*. In parallel with the procedures set out in the Administrative Procedure Act, specifically RCW 34.05.470, any Party may file a *Request for Reconsideration* within ten (10) days after issuance of the *Recommendation to the Governor*. Electronic filing with EFSEC and electronic service upon the other Parties is expressly permitted; however, hard copies must be postmarked or actually delivered to EFSEC and all other Parties not later than the expiration of the 10-day period for reconsideration.

EFSEC expects the 10-day period for Parties to request reconsideration of the Council's position on the Project to run from Tuesday, December 14, 2004, through Thursday, December 23, 2004. In accordance with WAC 463-30-390, EFSEC intends to forward to Governor Locke its *Recommendation to the Governor* as soon as possible after the reconsideration period has ended and the Council has had sufficient time to consider and act on any timely filed *Request for Reconsideration*.

Additional Prehearing Conference(s). EFSEC has its regularly scheduled upcoming Council meetings on Tuesday, September 6, 2004, and Monday, September 20, 2004. EFSEC invites all Parties to participate in the "Project Update" portion of those meetings as relevant to the Kittitas Valley Wind Power

Project; however, if any specific issues requiring pre-hearing action are brought to the Council's attention, separate notice will be provided. If possible, the Applicant is hereby requested to complete and file with the Council its in-process settlements with Intervenor Chris Hall and any other affected Party at the Council meeting scheduled for September 20, 2004.

Notice to Parties: Unless modified, this prehearing conference order shall control all further proceedings in this matter. In accordance with WAC 463-30-270(3), any objections to this order must be stated within ten days after the date of mailing of this order.

DATED and effective at Olympia, Washington, the 1st day of September, 2004.

Adam E. Torem, Administrative Law Judge