

September 19, 2022

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Kathleen Drew, Chair
Energy Facility Site Evaluation Council
621 Woodland Square Loop SE
Olympia, WA 98504

Re: Grays Harbor Energy - Resolution No. 351

Dear Chair Drew:

We are writing on behalf of Grays Harbor Energy LLC (GHE) to provide a comment regarding draft Resolution No. 351, which has been posted on the Council's website.

GHE appreciates the Council's consideration of its June 6, 2022, request, and the Council's direction to staff to prepare a resolution confirming that GHE's compliance with the Climate Commitment Act will satisfy its obligations under its Greenhouse Gas Mitigation Plan. GHE agrees with the Council's conclusion, stated in the draft document, "that the CCA is the type of comprehensive greenhouse gas reduction and mitigation regulation that EFSEC anticipated in the GHG Plan's sunset provision."

We are writing to propose a modest change to the resolution. The operative language of the draft resolution reads as follows:

Having considered GHE's request and the recommendation of EFSEC staff, the Council hereby confirms that Grays Harbor Energy LLC's purchase of allowances under the Climate Commitment Act will satisfy the company's obligations under the greenhouse gas mitigation plan approved by the Council in 2003. However, GHE shall remain obligated to make payments in accordance with the 2003 plan if at any time GHE is relieved of, or determined not to be subject to the requirement to purchase emissions allowances under the Climate Commitment Act, including during the duration of any delay in implementation of the emissions allowance auction process.

We are concerned that the reference to purchasing allowances in this resolution may be too narrow given the variety of potential ways a power sale contract might be structured. As you know, the Grays Harbor Energy Center produces power that GHE sells to other parties. It is certainly possible that GHE could purchase

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allowances at auction to cover the emissions associated with producing the power that it sells to another party. In that case, the contract price would take GHE's need to obtain allowances into account. However, it is also possible that GHE could negotiate a contractual agreement in which the party buying the power would contribute the allowances required under the Climate Commitment Act. In that case, the contract price for the power would take the buyer's contribution of the allowances into account. Under either contractual structure, there would be an allowance for each ton of emissions from the GHE facility. However, GHE is concerned that the current wording of the resolution may only address the first possibility and might limit GHE's ability to structure a contract in a way that would have the power purchaser contribute the allowances.

GHE proposes that the operative paragraph of the resolution be modified to read as follows:

Having considered GHE's request and the recommendation of EFSEC staff, the Council hereby confirms that by purchasing or contracting for allowances under the Climate Commitment Act, Grays Harbor Energy LLC will satisfy the company's obligations under the greenhouse gas mitigation plan approved by the Council in 2003. However, GHE shall remain obligated to make payments in accordance with the 2003 plan if at any time GHE is relieved of, or determined not to be subject to the requirement to provide emissions allowances under the Climate Commitment Act, including during the duration of any delay in implementation of the emissions allowance auction process.

Thank you for considering this comment. We would be happy to answer questions or provide additional information during the Council's meeting on September 20th.

Sincerely,



Karen McGaffey

cc: Sonia Bumpus, EFSEC Director
Jonathan Thompson, Assistant Attorney General