

**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. 20

COUNCIL ORDER NO. 817

PREHEARING CONFERENCE ORDER  
REGARDING SCHEDULING OF  
ADJUDICATIVE HEARINGS.

**Nature of the Proceeding:** This matter involves an Application from Sagebrush Power Partners, LLC (the Applicant), to the Washington State Energy Facility Site Evaluation Council (EFSEC or Council) for certification to construct and operate the Kittitas Valley Wind Power Project (Project), an approximately 182-megawatt wind turbine electrical generation facility. The proposed Project would be located within Kittitas County, on the ridges on either side of Highway 97, roughly 12 miles northwest of the city of Ellensburg. An adjudicative hearing on this matter was scheduled to commence in March, 2006, in Ellensburg, Washington.

**Procedural Setting:** The Council convened a prehearing conference on Friday, March 3, 2006, at approximately 1:00 p.m., in Olympia, Washington, pursuant to due and proper notice. The prehearing conference was held before Councilmembers Judy Wilson (Department of Natural Resources) and Tim Sweeney (Utilities and Transportation Commission). Council Chairman James Luce and Councilmembers Chris Towne (Department of Fish & Wildlife), Richard Fryhling (Department of Community, Trade, and Economic Development), Hedia Adelsman (Department of Ecology), and Patti Johnson (Kittitas County) participated by phone. EFSEC Manager Allen Fiksdal coordinated the conference. Assistant Attorney General Ann Essko was also present as the Council's legal advisor.

The purpose of the prehearing conference was to discuss rescheduling of the adjudicative hearings in this matter.

**Participants:** The Parties were present as follows:

The Applicant, Sagebrush Power Partners, LLC: Darrel Peeples, Attorney at Law, Olympia, Washington; Dana Peck, Horizon Wind Energy, Portland Oregon; Timothy McMahan, Attorney at Law, Vancouver, Washington (by phone); Erin Anderson, Attorney at Law, Ellensburg, Washington (by phone) and Chris Taylor, Horizon Wind Energy, Portland, Oregon (by phone).

Counsel for the Environment (CFE): Michael S. Tribble, Assistant Attorney General, (AAG), Olympia, Washington (by phone).

Washington State Department of Community, Trade & Economic Development: Mark Anderson, Senior Energy Policy Specialist, Olympia, Washington.

Kittitas County: James Hurson, Deputy Prosecuting Attorney, Ellensburg, Washington (by phone); and Darryl Piercy, Director, Kittitas County Community Development Services, Ellensburg, Washington (by phone).

Residents Opposed to Kittitas Turbines (ROKT): James Carmody, Attorney at Law, Yakima, Washington (by phone); and Ed Garrett, Lay Representative, Snohomish, Washington (by phone).

F. Steven Lathrop: Jeff Slothower, Attorney at Law, Ellensburg, Washington (by phone).

Economic Development Group of Kittitas County: Debbie Strand, Executive Director, Ellensburg, Washington (by phone).

### **Summary of Prehearing Conference:**

Ms. Makarow, EFSEC staff, summarized the reason for this prehearing conference. Kittitas County has not yet concluded its review of the Kittitas Valley Wind Power Project Development Activities Application. In a letter submitted to the Council on February 14, 2006, the Applicant suggested that the adjudicative hearings scheduled for March 2006 be delayed until July, to allow the County to finish its review process. Ms. Makarow then reviewed additions to the list of schedule conflicts previously circulated to all parties and Councilmembers.

Mr. Peeples, representing the Applicant, summarized the status of the County review and its impact on the hearing schedule. The February letter anticipated that the County process would be complete in March. A July date at that time seemed possible, given that in past scheduling efforts 60 days were allotted to complete all necessary filings by the Applicant and other parties. Mr. Hurson, representing the County has however expressed concerns with a July date in recent discussions with the Applicant.

Mr. Hurson described the status of the County's review. The Board of County Commissioners (BOCC) has scheduled a March 29, 2006 hearing date. County staff expect the hearing to require at least two evenings of testimony. A final BOCC decision would be expected in mid to late April. County staff have no preconceptions as to what the BOCC's decision might be. As a result they prefer that the Council wait until the BOCC renders its decision to set the EFSEC hearing schedule. Mr. Darryl Piercy added that with the County hearings scheduled for March 29 and 30<sup>th</sup>, he expected the BOCC to take a few weeks to review the testimony they received before beginning deliberations. A County decision might be ready at the earliest on April 18<sup>th</sup>, and could slip to May 2<sup>nd</sup>. He recommended a late September to early October EFSEC hearing date to ensure that hearings would take place.

Other parties participating in the conference had no additional comments about the County's review schedule.

Chair Luce questioned the Applicant and the County as to the length of the briefing period if it began on May 2<sup>nd</sup>, 2006. The Applicant replied that the schedule established in 2004 in this matter allocated two months for all briefing. Mr. Piercy responded for the County that 3 months had been allocated from the submittal of the Applicant's first brief. Chair Luce proposed that the hearings be held in August during the weeks of August 14 and August 21. Councilmember Towne made a motion in support of the August schedule proposed by Chair Luce. Councilmembers checked their calendars and confirmed their availability for this timeframe. Councilmember Wilson seconded the motion.

Mr. Hurson was given the opportunity for additional comment before Council action on the motion. Mr. Hurson reminded the Council that there is no location at the County fairgrounds during the two weeks being considered because the County is preparing for the fair. Mr. Hurson also opined that the time frame being set by the Council was very short, especially since the Applicant might have to make a new request for preemption. In previous proceedings in this matter six months had passed from the request for preemption being made to the hearing being scheduled to begin. Mr. Peck responded on behalf of the Applicant that the most recent land-use resolution process timeline had not been driven by the Applicant. Although a late September hearing date was possible, earlier would be better.

Council members voted unanimously to approve the motion, setting the EFSEC hearing dates to the weeks of August 14 and 21. Chair Luce also acknowledged the County and the Applicant had been working together to get through the County's review process.

The next prehearing conference will be scheduled in late April when the Applicant and the County have a better feel for the scheduling of the county's decision. At that time Administrative Law Judge Torem will have returned to work, and the briefing schedule would be set. Mr. Fiksdal also notified parties that EFSEC's Assistant Attorney General (AAG) Ann Essko was transferring to work for the Department of Social and Health Services. Parties will be notified when a new EFSEC AAG is appointed.

No other items being brought before the Council, the prehearing conference was adjourned at 1:35 p.m.

**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 14th day of March, 2006.

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James O. Luce, EFSEC Chair