

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of:

Grays Harbor Energy LLC

Satsop Combustion Turbine Project – Grays
Harbor Energy Center Units 3 and 4

COUNCIL ORDER NO. 846

ORDER GRANTING EXPEDITED
PROCESSING

Nature of Proceeding:

This matter involves an application by Grays Harbor Energy LLC ("Certificate Holder") to amend the Site Certification Agreement ("SCA") for the Satsop Combustion Turbine Project (also known as the "Grays Harbor Energy Center") to authorize construction and operation of two additional combustion turbine units, a steam generator and associated facilities (collectively "Units 3 and 4").

Background and Procedural Matters:

On October 30, 2009, the Certificate Holder submitted an application for amendment to the Washington Energy Facility Site Evaluation Council ("EFSEC" or "Council") to construct and operate Units 3 and 4. The existing project and the proposed expansion are located within the Satsop Development Park, in Grays Harbor County, near Elma, Washington.

On November 10, 2009, the Certificate Holder submitted a written request that the Council use the expedited processing procedure authorized by RCW 80.50.075 to evaluate the amendment application.

On November 20, 2009, the Council issued a *Notice of Initial Public Meeting, Notice of Land Use Consistency Hearing, and an Opportunity for Public Comment*. On December 15, 2009, the Council held a public informational hearing pursuant to RCW 80.50.090(1) and WAC 463-26.025, and a land use consistency hearing pursuant to RCW 80.50.090 and WAC chapter 463-26.

The Council considered the Certificate Holder's request for expedited processing at public meetings held in Olympia on January 12, February 9, and March 9, 2010. The Certificate Holder was represented by Brett Oakleaf and Karen McGaffey. The Counsel for the Environment, Assistant Attorney General Bruce Marvin, was present in person or by telephone.

Statutory and Regulatory Background:

RCW 80.50.075 provides:

(1) Any person filing an application for certification of an energy facility or an alternative energy resource facility pursuant to this chapter may apply to the council for an expedited processing of such an application. The application for expedited processing shall be submitted to the council in such form and manner and accompanied by such information as may be prescribed by council rule. The council may grant an applicant expedited processing of an application for certification upon finding that the environmental impact of the proposed energy facility is not significant or will be mitigated to a non-significant level under RCW 43.21C.031 and the project is found under RCW 80.50.090(2) to be consistent and in compliance with city, county, or regional land use plans or zoning ordinances.

(2) Upon granting an applicant expedited processing of an application for certification, the council shall not be required to:

(a) Commission an independent study to further measure the consequences of the proposed energy facility or alternative energy resource facility on the environment, notwithstanding the other provisions of RCW 80.50.071; nor

(b) Hold an adjudicative proceeding under chapter 34.05 RCW, the administrative procedure act, on the application.

(3) The council shall adopt rules governing the expedited processing of an application for certification pursuant to this section.

The Council's regulations at WAC 463-43-050 provide:

Following the review of an application, environmental checklist, and land use hearing and within one hundred twenty days of receipt of an application or such later time as is mutually agreed by the applicant and the council, the council by order will grant expedited processing for an application when it has found that:

(1) The proposed site is consistent and in compliance with city, county or regional land use plans, zoning ordinances; and

(2) The environmental impacts are not significant or may be mitigated to a non-significant level under RCW 43.21C.031.

FINDINGS OF FACT

Based on the oral and written information presented in these proceedings, the Council makes and enters the following findings of fact:

1. On October 30, 2009, the Certificate Holder submitted an application to amend the existing SCA for the Grays Harbor Energy Center to the Council. The requested amendment would authorize the construction and operation of two additional combustion turbine units, a steam generator and associated facilities, collectively known as Units 3 and 4.

2. The existing Grays Harbor Energy Center and the proposed expansion are located within the Satsop Development Park, in unincorporated Grays Harbor County near Elma, Washington. The project site is located within the "SD Satsop Development District" identified in Grays Harbor County Code chapter 17.57. Grays Harbor County Code section 17.57.020 includes energy generation facilities among the permitted uses in the SD Satsop Development District.

3. On November 10, 2009, the Certificate Holder submitted a written request that the Council use the expedited processing procedure authorized by RCW 80.50.075 to evaluate the amendment application.

4. On December 15, 2009, the Council convened a public information hearing and land use consistency hearing in Montesano, Washington, pursuant to due and proper notice.

5. On February 12, 2010, the Council issued a Mitigated Determination of Non-significance ("MDNS") pursuant to the State Environmental Policy Act ("SEPA"), RCW chapter 43.21C. The Council provided a 24-day public comment period, and received 5 written comments regarding the MDNS. After considering the comments received, the Council decided to retain the MDNS, having determined that modification of the MDNS was not necessary.

6. On March 9, 2010, the Council issued Council Order No. 845 finding that the proposed expansion of the Grays Harbor Energy Center is consistent and in compliance with the regional land use plans and zoning ordinances of Grays Harbor County.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Council makes and enters the following conclusions of law:

1. The Council has jurisdiction over the subject matter of this proceeding and the parties to it pursuant to RCW 80.50.075 and WAC chapter 463-43.

2. The Council has issued a MDNS for the proposed expansion, thereby concluding that the environmental impact of the proposed energy facility is not significant or will be mitigated to a non-significant level under RCW 43.21C.031.

3. The Council has issued Order No. 845, thereby concluding that the proposed expansion is consistent and in compliance with city, county or regional land use plans or zoning ordinances.

4. The criteria for expedited processing set forth at RCW 80.50.075 and WAC 463-43-050 have been satisfied, and therefore, granting the Certificate Holder's request for expedited processing is appropriate.

DETERMINATION AND ORDER

Based upon these Findings of Fact and Conclusions of Law, the Council determines and hereby Orders that the Certificate Holder's request for expedited processing is granted, and the Council will consider the application for amendment of the SCA in an expedited process consistent with the requirements of RCW 80.50.075 and WAC chapter 463-43.

Dated at Olympia, Washington this 30th day of March, 2010.

Washington State Energy Facility
Site Evaluation Council

By: _____/s/_____
Jim Luce
EFSEC Chair

Attest:

By: _____/s/_____
Al Wright
EFSEC Manager