

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

In the Matter of:

**SATSOP COMBUSTION TURBINE
PROJECT**

COUNCIL ORDER No. 809

**ORDER ON APPLICATION FOR
TRANSFER OF CONTROL**

By letter dated January 18, 2005, Duke Energy Grays Harbor, LLC and Invenergy Grays Harbor LLC advised the Council that Duke Energy North America, LLC had entered into an agreement to sell Duke Energy Grays Harbor, LLC ("Company"), the co-Certificate Holder, to Invenergy Grays Harbor LLC, and requested that the Council approve the transfer of control over the Site Certification Agreement (SCA) pursuant to WAC 463-66-100. Also by letter dated January 18, 2005, the Company and Energy Northwest requested that Energy Northwest be removed as a Certificate Holder from the SCA.

The Council has reviewed this request and finds as follows:

- (1) On February 21, 2001, the Council adopted Resolution No. 297, adding the Company as a co-holder of the SCA with Energy Northwest. At that time, the Company was wholly-owned by Duke Energy North America, LLC.
- (2) On December 27, 2004, Duke Energy North America, LLC, entered into an agreement to sell the Company to Invenergy Grays Harbor LLC ("Transaction"). Invenergy Grays Harbor LLC is a wholly-owned subsidiary of Invenergy Investment Company LLC. Following the closing of the Transaction, the Company will be renamed as Grays Harbor Energy LLC.
- (3) The Company and Invenergy Grays Harbor LLC are requesting that the Council approve the transfer of control of the SCA and, upon closing of the Transaction, issue a resolution authorizing a technical amendment to the SCA. Energy Northwest, the Company and Invenergy Grays Harbor LLC further request that the Council approve removal of Energy Northwest from the SCA. Thereafter, Invenergy Grays Harbor LLC expects to change the

name of the Company to Grays Harbor Energy LLC and will request an amendment of the SCA to reflect the name change.

(4) The Company also requests that the Council release Duke Energy North America, LLC, from the Limited Guaranty Agreement dated April 24, 2003 ("DENA Guaranty"), which was provided to the Council to secure the obligations under the Satsop Combustion Turbine Project Initial Site Restoration Plan ("Site Restoration Plan") approved by the Council on June 18, 2001. In place of the DENA Guaranty and in order to maintain the Site Restoration Plan, Invenergy Grays Harbor LLC has agreed to provide an "evergreen" letter of credit from an "A" rated financial institution, to be effective upon approval by the Council and closing of the Transaction.

(5) Although the ownership of the Company will change, and the Company's name will change, the Company will remain bound by all of the substantive terms and conditions of the SCA. The Company satisfies the requirements of WAC 463-66-100(4). The Company will have the organizational, financial, managerial and technical capability to comply with the terms and conditions of the SCA.

(6) No substantive term or condition of the SCA will be modified by the proposed change in the control of the Certificate Holder.

THEREFORE, IT IS HEREBY ORDERED that:

(1) The proposed changes in control and name of the Company are approved pursuant to WAC 463-66-100, and shall not affect the Company's status as a Certificate Holder;

(2) Upon the Council's receipt and approval of the financial assurances from Invenergy Grays Harbor LLC identified in Finding No. 4 above and notification that Transaction has closed, the Council shall issue a resolution that:

(a) Terminates the DENA Guaranty referenced above and releases Duke Energy North America, LLC., its affiliates and subsidiaries and their respective directors, officers and employees from all obligations under the DENA Guaranty or the SCA;

(b) Approves the Site Restoration Plan with the financial assurances provided by Invenergy Grays Harbor LLC; and

(c) Amends the SCA to remove Energy Northwest as a certificate holder and releases it from all obligations under the SCA (including plans approved in connection therewith) arising after issuance of the resolution.

(3) Upon the further notification that the Company has been renamed Grays Harbor Energy, LLC, the Council shall amend the SCA by resolution to make Grays Harbor Energy LLC the sole Certificate Holder.

DATED at Olympia, Washington and effective on this __23rd__ day of February, 2005.

WASHINGTON ENERGY FACILITY
SITE EVALUATION COUNCIL

_____/ s / _____
James O. Luce, Chair