

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of
Application No. 2001-02

STARBUCK POWER COMPANY, LLC

STARBUCK POWER PROJECT

COUNCIL ORDER NO. 813

ORDER ON TERMINATION,
DISMISSAL, AND DIRECTING CLOSE-
OUT OF APPLICATION NO. 2001-02

Background

This matter involves an application to the Washington State Energy Facility Site Evaluation Council (EFSEC or Council) for certification of a combined cycle natural gas fired generation facility, proposed to be sited in Columbia County, Washington.

On August 27, 2001, Starbuck Power Company, LLC, (SPC or Applicant) submitted an Application for Site Certification for the Starbuck Power Project, No. 2001-02, to the Energy Facility Site Evaluation Council (EFSEC or Council).

On December 27, 2001, EFSEC issued a Notice of Adjudicative Proceeding, a Notice of Opportunity to File Petitions for Intervention, and a Notice of Intent to Hold Prehearing Conference. EFSEC received notices of appearance/petitions for intervention from the following state agencies and organizations: Washington Utilities and Transportation Commission; Washington Department of Community, Trade and Economic Development; Washington Department of Fish and Wildlife; Columbia County; and the Columbia Rural Electric Association, Inc. On January 31, 2002, EFSEC also received a Preliminary Statement of Issues by the Counsel for the Environment. On February 12, 2002, EFSEC issued a Notice of Prehearing Conference, and Notice of Schedule for Responses to Petitions for Intervention. On February 26, 2002, SPC submitted the Applicant's Response to Petitions to Intervene.

On February 27, 2002, counsel for SPC requested in writing that the Council suspend review of the Starbuck Power Project Application for Site Certification No. 2001-02, for a period of six months.

On March 6, 2002, EFSEC issued a notice of cancellation of the initial prehearing conference, scheduled for March 15, 2002.

On March 11, 2002, at the Regular EFSEC Council Meeting, EFSEC granted SPC's request to suspend the review of Application No. 2001-02 for a period of six months. The applicant was to inform the Council regarding the status of the project no later than September 11, 2002.

On September 3, 2002, SPC requested a second 6 month suspension of the review of Application No. 2001-02. The Council acted to approve this second request at the regular Council meeting on September 9, 2002, extending the suspension through March 11, 2003.

On January 17, 2003, SPC requested a third 6 month suspension of the review of Application No. 2001-02. On March 10, 2003, the Council approved the Applicant's third request for suspension of the proceedings in this matter and in Order No. 774, Prehearing Order No.1, granted an additional extension through March 11, 2005 on the following conditions:

- 1) The Applicant must request any resumption of the proceedings in writing, prior to March 11, 2005. A request for resumption must indicate that the Applicant is financially capable of funding all reasonable and necessary costs associated with additional proceedings and review of Application No. 2001-02.
- 2) Such a request must include a certification to the effect that all information in the Application for Site Certification is current and up to date, and that no environmental conditions or regulatory requirements have changed since submittal of the Application in August 2001 that could affect the validity of the information or proposals for mitigation presented in the Application currently before the Council. The applicant shall serve this certification on all parties to the tentative service list at the same time the certification is submitted to the Council.
- 3) If any environmental conditions or regulatory requirements have changed since the submittal of the Application in August 2001, in addition to the request for resumption of the Council's proceedings, the Applicant shall submit information describing the environmental or regulatory changes that have occurred, the impact of the changes on the information or proposals for mitigation presented in the Application, and as applicable, revisions to the Application. The applicant shall serve this additional information, and revisions to the Application as applicable, on all parties to the tentative service list at the same time the information is submitted to the Council. Service to the tentative service list does not preclude additional distribution of revisions to the Application required by EFSEC laws and rules.
- 4) If the Council does not receive a request to resume the proceeding prior to March 11, 2005, the Council will take action to terminate all proceedings and review of Application No. 2001-02 undertaken pursuant to Council laws and rules.

Discussion and Conclusion

On February 8, 2005, EFSEC staff notified SPC representatives Steve Strasser and Mike Elmer by certified mail and e-mail of the pending March 11, 2005 deadline to re-initiate application review. On March 10, 2005, Mr. Strasser notified EFSEC staff by e-mail that SPC would not be submitting a request in writing pursuant to the requirements of Order No. 774. A letter requesting resumption of the proceeding was not received by EFSEC by the March 11, 2005 deadline. Mr. Strasser reiterated SPC's position at the Council's March 15, 2005 Special meeting.

On April 12, 2005, at its monthly Council meeting, the Council considered the status of SPC's Application with the following Councilmembers present: Chair James O. Luce; Hedia Adelsman (Department of Ecology); Chris Smith Towne (Department of Fish & Wildlife), Richard Fryhling (Department of Community, Trade, and Economic Development), and Tim Sweeney (Utilities and Transportation Commission). Alex Leventis (Columbia County) appeared and participated by telephone conference call.

The Council acknowledges that the Applicant has not requested any resumption of the proceedings in writing prior to March 11, 2005. The Council also acknowledges that SPC does not currently owe any funds to EFSEC arising from costs as are actually and necessarily incurred by the Council in processing the application (RCW 80.50.071).

Accordingly, pursuant to Council Order No. 774, the Council HEREBY ORDERS:

1. The termination of all proceedings and review of Application No. 2001-02;
2. The dismissal of the adjudicative proceedings on this matter;
3. The Council shall retain jurisdiction over the application for administrative purposes as necessary to effectuate the purposes of this order;
4. The Council shall take appropriate action to close all aspects of application processing, including provisions for record management and termination of financial accounting procedures; and
5. The Council shall terminate processing of Application No. 2001-02 when it is satisfied that all closure functions have been completed.

WASHINGTON ENERGY FACILITY SITE EVALUATION COUNCIL

Dated in Olympia, Washington this 12th day of April, 2005

James O. Luce, EFSEC Chair