

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WASHINGTON STATE
ENERGY FACILITY SITE EVALUATION COUNCIL
Richard Hemstad Building
1300 South Evergreen Park Drive Southwest, Conference Room 206
Olympia, Washington
Tuesday, April 16, 2013
1:30 P.M.

MONTHLY COUNCIL MEETING
Verbatim Transcript of Proceeding

REPORTED BY: SHELBY KAY K. FUKUSHIMA, CCR #2028

Buell Realtime Reporting, LLC
1411 Fourth Avenue
Suite 820
Seattle, Washington 98101
206.287.9066 | Seattle
360.534.9066 | Olympia
800.846.6989 | National

www.buellrealtime.com

A P P E A R A N C E S

Councilmembers Present:

Jim Luce, Chair
Dick Fryhling, Department of Commerce
Hedia Adelsman, Department of Ecology
Joe Stohr, Department of Fish and Wildlife
Andrew Hayes, Department of Natural Resources
Dennis Moss, Utilities and Transportation Commission

Assistant Attorney General:

Ann Essko, Assistant Attorney General

Staff in Attendance:

Stephen Posner, Compliance Manager
Jim La Spina, EFS Specialist
Tammy Talburt, Commerce Specialist
Kayce Michelle, Administrative Assistant 3

Guests in Attendance:

Richard Cowley, Department of Health, Radiation Protection
Jan Aarts, Cardno ENTRIX
Cullen Stephenson, Department of Ecology
Richard Downen, Grays Harbor Energy Project
Mark Miller, PacifiCorp Energy
Jeremy Smith, PacifiCorp Energy

Guests in Attendance Via Phone:

Ryan Brice, Department of Health
Timothy L. McMahan, Stoel Rives
Megan Connor, Kittitas Valley Wind Project
Shannon Khounnala, Energy Northwest
Jennifer Diaz, Puget Sound Energy, Wild Horse Wind Power Project
Elizabeth Thomas, K&L Gates

1 OLYMPIA, WASHINGTON, APRIL 16, 2013

2 1:30 P.M.

3 -o0o-

4

5 P R O C E E D I N G S

6

7 CHAIR LUCE: Good afternoon. Today is Tuesday, April
8 16th, the year of 2013. The time is 1:30 p.m.

9 This is the monthly meeting of the Washington State
10 Energy Facility Site Evaluation Council.

11 Clerk will call the roll.

12 THE CLERK: Department of Commerce?

13 MR. FRYHLING: Dick Fryhling is here.

14 THE CLERK: Department of Ecology?

15 MS. ADELSMAN: Hedia Adelsman is here.

16 THE CLERK: Fish and Wildlife?

17 MR. STOHR: Joe Stohr is here.

18 THE CLERK: Natural Resources?

19 MR. HAYES: Andy Hayes is here.

20 THE CLERK: Utilities and Transcription Commission?

21 MR. MOSS: Dennis Moss for the UTC.

22 THE CLERK: Chair?

23 CHAIR LUCE: Chair is present.

24 THE CLERK: There is a quorum.

25 CHAIR LUCE: Thank you.

1 Councilmembers have the agenda before them.

2 Have they had a chance to review it, and if so, are
3 there any proposed changes or additions or deletions?

4 Hearing none, the agenda is approved as proposed.

5 I would now ask whether there are people on the phone
6 line, and if so, would you please identify yourselves.

7 MR. BRICE: Ryan Brice from the Department of Health.

8 MS. DIAZ: Jennifer Diaz from Puget Sound Energy,
9 Wild Horse Wind Facility.

10 MR. McMAHAN: Tim McMahan, Stoel Rives law firm.

11 MS. CONNOR: Megan Connor for Kittitas Valley Wind
12 Power Project.

13 MS. KHOUNNALA: Shannon Khounnala with Energy
14 Northwest.

15 CHAIR LUCE: Going once? Going twice? I'll assume
16 that there's no one else on the phone.

17 Minutes for March 19, 2013, are before the
18 Councilmembers as transcribed by our court reporter.

19 Are there any changes?

20 Hearing none, I'll take a motion to adopt the minutes
21 as presented.

22 MR. FRYHLING: I'll so move.

23 MS. ADELSMAN: I'll second.

24 CHAIR LUCE: The motion is seconded.

25 The question is called for: All in favor say "aye."

1 MULTIPLE SPEAKERS: Aye.

2 CHAIR LUCE: Let the record reflect that the vote was
3 unanimous and the minutes are approved.

4 We'll go now to the projects that the Council has
5 jurisdiction over, already approved projects.

6 Kittitas Valley Wind Power Project, do we have an
7 update on that?

8 MS. CONNOR: Yes. The March production summary was
9 19,716 megawatts, with 14 miles per hour for the wind. The
10 capacity factor was 26 percent.

11 There were no safety incidents, and the project is in
12 compliance as of April 9, 2013. The project had no sound or
13 shadow flicker complaints.

14 And for environmental, avian and bat facility
15 monitoring continues. Raptor nest surveys are complete.

16 There was no stormwater discharge, the general
17 stormwater permit has been terminated, and a site visit with
18 Ecology and EFSEC will take place sometime in May or June.

19 CHAIR LUCE: Thank you.

20 Councilmembers have any questions?

21 Staff, do you have anything to add?

22 Okay. Thank you so much. We'll move on now to Grays
23 Harbor Energy Project.

24 Do we have an operational update?

25 MR. DOWNEN: Good afternoon, Chair Luce and Council.

1 My name is Rich Downen. I'm the plant manager.

2 For the month of March at Grays Harbor Energy, we had
3 no safety incidents or environmental incidents; we performed all
4 of our normal reporting and training; the unit operated for
5 eight days during the month; and we received no complaints.

6 CHAIR LUCE: Thank you.

7 Councilmembers have any questions?

8 Staff, do you have anything to add?

9 MR. LA SPINA: No, sir.

10 MR. POSNER: Nothing.

11 CHAIR LUCE: Hearing no questions and nothing to add,
12 thank you so much for your report.

13 Chehalis?

14 MR. MILLER: Good afternoon, Chair Luce and
15 Councilmembers. My name is Mark Miller. I'm with PacifiCorp
16 Energy's Chehalis power plant. We continue to have a good
17 safety record with 3,815 days with no lost time.

18 With respect to environment and testing, and as I
19 noted last month, we were going to -- we did conduct a RATA, a
20 relative accuracy test audit, of our continuous emission
21 monitors. We did have one measurement for ammonia on Unit 1
22 that did not pass that RATA, and we are currently -- it was 21
23 percent, and I think the requirement was 15 percent accuracy.

24 And then currently working with Mr. La Spina and
25 Mr. Lamoreaux with the Southwest Clean Air Agency to decide --

1 this is a State regulated ammonia slip measurement and not a
2 federally mandated measurement, so there's a bit of discussion
3 on how we and when we will rerun that RATA.

4 Currently we've -- last month -- last week we had the
5 manufacturer of the monitoring device system at the plant for
6 the whole week. We still aren't satisfied that they've
7 corrected any issues that may be with that one measurement.

8 And, again, I believe I'm expecting a letter from
9 Mr. La Spina in the near future on discussion on when we will
10 conduct that RATA. Mr. Lamoreaux believes that it may be of
11 value to go an operating quarter, which is about 6800 hours of
12 operating conditions in a calendar quarter before we retest just
13 because we replaced some mirrors in the -- it's a luminescence
14 measurement device, so it's kind of a little -- a little black
15 box equipment. So in Mr. Lamoreaux's stack testing experience,
16 he, in the past, has found that this needs to be conditioned, so
17 I'm waiting the discussion, I guess --

18 CHAIR LUCE: All right.

19 MR. MILLER: -- from Mr. La Spina.

20 For the month, we generated 131,000 hours -- or
21 megawatt hours for a capacity factor of 35 percent, so there's
22 more to discuss with Staff on that.

23 CHAIR LUCE: All right. Thank you. We'll look
24 forward to...

25 MS. ADELSMAN: I have a question.

1 CHAIR LUCE: Yes, Hedia.

2 MS. ADELSMAN: Does the problem affect the operation
3 of the plant or the production?

4 MR. MILLER: No, it does not. In most cases in EPA
5 regulated emissions, we would use substitute data, and there's
6 some specific requirement for that. The same would hold with
7 the State, even though it's not a federally regulated emission
8 at this point.

9 So we are using substitute data. That's some of the
10 clarification I'm waiting for Mr. La Spina and Mr. Lamoreaux
11 to give us feedback, but we do have to conduct an additional
12 RATA to get within the accuracy that's required for ammonia on
13 Unit 1.

14 I don't know. Did I answer your question?

15 MS. ADELSMAN: Mm-hm.

16 Anything else to add?

17 MR. LA SPINA: Well, I just wanted to clarify that I
18 talked extensively with the Southwest Clean Air Agency, Clint
19 Lamoreaux. Apparently, typically, when this piece of equipment
20 is replaced, they typically run it for a whole quarter like --
21 like he said, to condition the equipment.

22 Unfortunately, there was an oversight and they tested
23 too soon, and so I -- I don't believe we've had a problem with
24 this before, and we expect that it's just an anomaly, and the
25 unit will be retested soon.

1 MS. ADELSMAN: Okay. Thank you.

2 CHAIR LUCE: Thanks very much.

3 Any other Councilmember questions?

4 Hearing none, we'll move ahead to Wild Horse Wind
5 Power Project.

6 Jennifer?

7 MS. DIAZ: Thank you, Chair Luce. For the record, my
8 name is Jennifer Diaz. I'm the environmental manager for Puget
9 Sound Energy at the Wild Horse Wind Facility in Ellensburg.

10 I have three items to update the Council on today:
11 First, as a follow-up for Councilmember Adelsman's question last
12 month regarding approval of the revised Spill Prevention,
13 Control, and Countermeasures Plan by Ecology's spill program,
14 Jeff Lewis from Ecology Spill Prevention Program reviewed the
15 revised plan, including a new mobile field system, and had no
16 comments;

17 Second, in accordance with the Operations Stormwater
18 Pollution Prevention Plan, a semiannual inspection of stormwater
19 BMPs was completed on March 26th. Overall site BMPs are in very
20 good condition, and no stormwater was observed in any ditches.
21 A few BMPs required maintenance, such as cleaning out check
22 dams, which was completed on March 28th;

23 And, finally, PSE just received the final report for
24 the second year avian and bat monitoring study completed in the
25 expansion area in 2012. A total of eight birds comprising six

1 identified species were found during the scheduled searches.

2 Three of the eight birds found were nonnative species
3 and not protected by the Migratory Bird Treaty Act. These
4 include a gray partridge, a ring-necked pheasant, and a rock
5 pigeon. Two of the eight birds found were raptors, including a
6 Northern Harrier and a red-tailed hawk. No bats, no eagles, and
7 no federal or state listed bird species or species of concern
8 were found. Annual fatality estimates were calculated by
9 adjusting search results for carcass removal, observer detection
10 bias, and the proportion of private turbines searched.

11 For birds, the overall estimated fatality rate is 1.4
12 birds per megawatt; for raptors, the overall estimate is 0.22
13 raptors per megawatt; and the overall bat fatality estimate is
14 zero because no bats were found.

15 TAC members will be reviewing the final monitoring
16 report of the next TAC meeting, which will be scheduled on June
17 4th, and that's all I have.

18 CHAIR LUCE: Great. Councilmember questions?

19 MS. ADELSMAN: Thank you, Jennifer, for the
20 follow-up. I appreciate it.

21 MS. DIAZ: Absolutely.

22 CHAIR LUCE: Hearing no Councilmember questions,
23 let's talk a little about Columbia Generating Station.

24 MS. KHOUNNALA: Yes. Good afternoon, Council. This
25 is Shannon Khounnala with Energy Northwest. And to start out

1 with, we'll talk about Columbia Generating Station.

2 Today we're operating at a hundred percent power,
3 generating 1,171 megawatts, and we have been online for 322
4 days.

5 Columbia is 25 days from the start of our 2013
6 refueling outage. Our outage is scheduled for May 11th and will
7 run through June 15th.

8 There are no other events or safety incidents or
9 regulatory issues to report regarding Columbia Generating
10 Station.

11 CHAIR LUCE: Thank you. Water rights?

12 MS. KHOUNNALA: Yes. In regards to the WNP 1 and 4
13 water rights, we continue to work with the Department of Energy
14 on our lease agreement. This week is a planned meeting with the
15 Richland operations director with some of our senior management,
16 and we plan to follow that up with an additional meeting with
17 DOE in hopefully early May to address the discrepancies --
18 (phone beeps) -- that has been forwarded to us.

19 So we continue to work through those issues, and once
20 we have resolved the lease arrangement, we will have plans to
21 submit the water rights application.

22 CHAIR LUCE: Thank you.

23 Did someone just join the conversation?

24 MS. THOMAS: This is Liz Thomas from K&L Gates.

25 Sorry to be late.

1 CHAIR LUCE: No apology necessary, Liz. Thank you.
2 We'll move ahead now to emergency preparedness.
3 Stephen?

4 MR. POSNER: Tammy will be making that presentation.

5 CHAIR LUCE: All right.

6 MS. TALBURT: Good afternoon, Chair Luce and
7 Councilmembers. We're coming before the Council today for
8 consideration of the Columbia Generating Station Emergency
9 Preparedness Program.

10 A little background. The SCA and the NRC license
11 require that Columbia maintain an emergency preparedness program
12 with offsite agencies. Currently, there are nine state and
13 county agencies that receive direct funding through
14 EFSEC-approved contracts, and those have been negotiated with
15 the proposed budget for the 2014-2015 biennium budget of 3.5
16 million. In your packet, there is a meeting report and a budget
17 reflecting so.

18 Staff recommends that the Council approve Resolution
19 No. 333, authorizing the contracts for the nine state and local
20 agencies -- I'm sorry -- 334.

21 CHAIR LUCE: Councilmembers want to take a minute to
22 read this?

23 All right. We're just going to be quiet here for a
24 couple of minutes.

25 MS. TALBURT: Thank you.

1 (Pause in the proceedings.)

2 CHAIR LUCE: And the budget amounts are set forth
3 behind the report?

4 MS. TALBURT: Correct.

5 MS. ADELSMAN: So the hundred thousand increase in
6 the budget between FY '14 and '15, is that due to like salary
7 and so on? Do we know why? Cost of living?

8 MS. TALBURT: Generally, there's about a 4 percent
9 increase overall from year to year based upon all the
10 agencies --

11 MS. ADELSMAN: Okay.

12 MS. TALBURT: -- that report it in their budgets, and
13 most of them were due to salaries and benefit increases.

14 MS. ADELSMAN: Okay. And then, you know, in the
15 "WHEREAS," it talks about today as being a special meeting? It
16 says, "At its special meeting of April 16...."

17 MS. TALBURT: It's my understanding that all the
18 Council meetings are special meetings.

19 MS. ADELSMAN: All right.

20 MR. POSNER: That's correct.

21 MS. TALBURT: That's the way they're defined.

22 MS. ADELSMAN: Sorry. It took my last meeting for me
23 to discover that we are special.

24 MR. POSNER: Yes.

25 MS. ADELSMAN: Sorry. Okay.

1 CHAIR LUCE: Councilmembers had a chance to review
2 the draft?

3 MR. POSNER: And I might just --

4 CHAIR LUCE: Yes, Stephen?

5 MR. POSNER: -- also add that this information has
6 been shared with Energy Northwest. They received copies of all
7 the agency proposals, they've had the opportunity to review the
8 proposals, and we haven't received any comments back from them.

9 CHAIR LUCE: Okay. I think I heard Department of
10 Health was on the line, so I assume that Department of Health
11 has also been involved in these discussions and is approving of
12 the level of funding?

13 MR. POSNER: Right. Right. The agencies propose the
14 budget as part of their proposal. They put together their work
15 plan in the budget, and then we review it and go -- we met with
16 each of the agencies and went over the budget.

17 And as we have done in past years, we've required
18 that they keep costs in line as much as possible. So like Tammy
19 said, you know, there have been no scope of work changes
20 significant enough to require changes in the budget, but -- so,
21 basically, they've kept the costs in line except for the cost of
22 living increases and benefit increases.

23 CHAIR LUCE: Good. Councilmember questions?

24 MR. STOHR: I have a question, Mr. Chair.

25 CHAIR LUCE: Yes.

1 MR. STOHR: I'm looking at the first "NOW, THEREFORE,
2 BE IT RESOLVED" -- and this is a learning moment for me, maybe,
3 but where we would be stating that the "EP Program is organized
4 and managed adequately to meet program requirements," how do
5 I -- or how does the Council assure itself that that's indeed
6 the case?

7 MR. POSNER: Do you want to take a shot at that,
8 Tammy, or would you...

9 I mean, basically, what we do is we work with the --
10 each of the agencies have a program expert, if you will. And,
11 essentially, EMD is -- I guess you could -- they oversee, for
12 the most part, the overall program on our behalf. They are sort
13 of the lead agency, so we work very closely with them to make
14 sure that the proposals that the other agencies and EMD are
15 putting together meet all of the federal and state requirements
16 for an adequate emergency preparedness program.

17 And then we also coordinate with Energy Northwest.
18 They have people that also oversee the EP program, so that's why
19 we let them look at the program -- you know, the proposals to
20 make sure that nothing's being missed and everything is being
21 covered.

22 MR. STOHR: Okay. Great. Thank you, Stephen.

23 CHAIR LUCE: Other questions?

24 Do I have a motion to approve Resolution No. 334 and
25 enter into it today?

1 MR. FRYHLING: I would make a motion that we approve
2 Resolution No. 334.

3 CHAIR LUCE: And that would include the funding
4 totals reflected on --

5 MR. FRYHLING: Yeah, listed on the list that include
6 the budget totals reflected on the attached budget.

7 CHAIR LUCE: So I'm assuming when this resolution is
8 approved and signed, it will have this budget attached to it?

9 MS. TALBURT: Yes.

10 MR. POSNER: Yes.

11 CHAIR LUCE: Okay. Do I have a second?

12 MR. STOHR: I'll second.

13 CHAIR LUCE: Okay. We have a motion to second.

14 Any discussion beyond what we've had?

15 MR. MOSS: Yeah. I would just like to comment that
16 this is -- and perhaps this was distributed earlier, and I just
17 missed it, but we're being asked to make some pretty major
18 findings here in terms of the adequacy of the program, funding
19 to the tune of \$3 1/2 million, and so on and so forth, and my
20 comfort level is not at a hundred percent having not received
21 any briefing material on this. This is, as far as I recall, the
22 first time since I have been on the Council that I have seen
23 this sort of thing, and I know we have other Councilmembers who
24 are new. And so I just feel -- I feel like I'm being handed
25 something here on the basis of, "Well, trust us. We've done

1 this before. And it's always been done this way, and so it's
2 okay."

3 I think Mr. Posner's explanations just now, certain
4 aspects of it, give me a higher level of comfort, I have to say.
5 I just wanted to make that comment and raise it as a question of
6 whether others experienced anything similar since that they
7 aren't -- didn't come in here as fully informed as they might
8 have in terms of some pretty significant administrative matters
9 that we need to approve.

10 MS. ADELSMAN: Mr. Chair, I have the -- I share the
11 same concern, even though I have been here for quite a while,
12 but, also, you know, it would have been nice to hear from Energy
13 Northwest and to see, you know, whether they have comments or
14 not before we actually take this action. I think it would be a
15 good protocol on our part, given that this is not going to go
16 into effect until July 1st, so the agencies have time, before
17 you wait until the next meeting, for them to, you know, plan on
18 this.

19 The other question that I have, and I -- you know,
20 maybe you have the answer -- is: Do we get a report at the end
21 of each year of the activities that these agencies would have
22 conducted so -- so it's like a performance? I mean, do we know
23 if they have gone out and inspected them? Is there something
24 that we get to show for the 3.5 million?

25 MR. POSNER: Well, we get quarterly reports, and we

1 do get annual reports.

2 And I would like to address Dennis Moss's concerns --

3 MS. ADELSMAN: Okay.

4 MR. POSNER: -- and I apologize. We probably should
5 have provided this information to you sooner. I take
6 responsibility for that, in terms of being able to, you know,
7 put the package together sooner and provide it. We've been
8 under the gun a little bit just in terms of getting the contract
9 language approved and working with some of the internal UTC
10 requirements. And, you know, there's no excuse, but that was an
11 oversight on our part, not to get the information to you sooner.

12 I would propose that what we could do is we could
13 delay this action, perhaps for as much time as you feel you need
14 to review it more thoroughly, and we could provide you a higher
15 level of assurance, and then we could either bring it up again
16 at next month's meeting or -- there is a possible issue with the
17 Emergency Management Division because of timing. They have
18 subcontracts with six different local jurisdictions, and they
19 have to get those subcontracts approved at the local level.

20 And in the past, there's been concerns that they get
21 them in a timely manner, which is usually April, but we can
22 check with them, because I wouldn't want you to vote on
23 something you don't feel comfortable voting on. If you feel
24 like you need more time, I think we could probably accommodate
25 that.

1 MR. MOSS: Just in terms of being -- feeling fully
2 informed, are these reports that -- that EFSEC receives from the
3 agencies participating, are they voluminous, or are they fairly
4 succinct?

5 MR. POSNER: Well, the EMD submits a quarterly report
6 of all the local jurisdictions, and then also their own
7 activities. And then all the other agencies -- Department of
8 Health and Department of Agriculture -- they submit their own
9 quarterly report as well, as well as an annual report.

10 And I might also add that all this information is
11 also federal requirements under FEMA and NRC, so the same
12 information gets reviewed by those agencies as well. So you
13 essentially have the state requirements under our SCA, and then
14 all the federal requirements under the nuclear regs, as they
15 call them.

16 So the information is reviewed by multiple agencies
17 to make sure that -- in fact, it's a requirement of their NRC
18 license that they -- they conduct the EP program and, you know,
19 submit the reports in a timely manner.

20 MR. BRICE: If I could --

21 MR. MOSS: Is there any single document or a set of
22 documents that would allow someone in my position, for example,
23 to quickly ascertain or get some good sense of what it is EFSEC
24 is getting for \$3.5 million over a biennium?

25 MR. POSNER: Well, yeah. We could provide you with

1 the scopes of work for the various agencies, which will be
2 actually part of the contracts that we're asking you to approve.

3 MS. MOSS: That would be as a statement or section in
4 the contract?

5 MR. POSNER: Yeah, exactly. And it goes into detail
6 about what they're being paid for, and specifically what they're
7 being required to do and how they provide or show us that
8 they're doing what they're supposed to be doing.

9 So that's in the contract, and then we compare that
10 to what they submit quarterly in their quarterly reports where
11 they justify, you know, for us to pay them, showing us that they
12 have done the work.

13 So we review those every quarter, and then we review
14 the annual reports as well.

15 MR. MOSS: And I'll say that it goes a fair way to
16 hear you explain that, you know, you all are on top of this as
17 Staff, and you're receiving these reports and studying them.

18 And it's not to the level of an audit, I take it, but
19 it is at least monitoring --

20 MR. POSNER: Right.

21 MR. MOSS: -- the function that's going on there
22 that's...

23 MR. POSNER: Right. Well, the facility has a lot at
24 stake if their emergency preparedness program is deemed
25 inadequate. They can face FEMA and NRC sanctions -- or actions,

1 I guess, as well as EFSEC, for that matter. I mean, the Council
2 can take action, too.

3 So there is a high level of oversight, but, again, I
4 wouldn't feel comfortable, you know, asking you to vote on
5 something. If you feel you need more information, we'll do what
6 we can to accommodate you.

7 MR. FRYHLING: Maybe, as the person who made the
8 motion, I'll withdraw that motion. And we can put it off till
9 our next meeting, if that's what the rest of the Council would
10 like to do.

11 MS. ADELSMAN: Mm-hm.

12 MR. FRYHLING: That would be fine with me. I know I
13 have been through this a number of times, and we've had long
14 discussions on this in the past. And so some of us that have
15 been here for a while, it's -- I would say we've had these
16 discussions.

17 CHAIR LUCE: I also have a level of comfort because
18 we went through this same discussion at length last year, and,
19 basically, this is -- what? -- a hundred thousand dollar
20 increase attributable to salaries and benefits.

21 So my institutional knowledge may be, Dennis -- I
22 mean, I have been through this drill. But if others want to go
23 through the drill, there would be some benefit to that. I can
24 understand Councilmembers want to feel comfortable about signing
25 off on these funds, which are actually being paid by Energy

1 Northwest, if I recall correctly, that are attributable to the
2 project.

3 MR. POSNER: Yeah. And one thing also to keep in
4 mind, they're reimbursement contracts. The money is not being
5 handed over to the agencies.

6 CHAIR LUCE: Right.

7 MS. ADELSMAN: Yeah.

8 MR. POSNER: They have to justify this is a budget
9 that they work within.

10 And, in fact, some of the agencies have performed the
11 services for less than what the budget is allocated at, so...

12 CHAIR LUCE: Let me ask --

13 MS. ADELSMAN: And we do this every two years, not
14 every year.

15 CHAIR LUCE: Okay. Every two.

16 MR. POSNER: Yeah. Every two years, yes, with the
17 biennium.

18 MS. ADELSMAN: That's why some of the people were not
19 on the Council.

20 CHAIR LUCE: Question: Do you think you could get
21 the materials -- well, two questions.

22 First of all, is it important we get this done in
23 April?

24 MR. POSNER: Well, what I would suggest is that I
25 think -- well, what's most important is that you feel

1 comfortable voting on it.

2 CHAIR LUCE: Understood.

3 MR. POSNER: And so I think we can make the
4 adjustments. It might require a quick special meeting where we
5 could just set that up and --

6 CHAIR LUCE: That's what I was asking is --

7 MR. POSNER: -- people could call in between now and
8 the next -- May's meeting.

9 CHAIR LUCE: -- if the materials were provided,
10 Dennis, to the Councilmembers -- could we do --

11 MR. MOSS: Or if I might suggest an alternative
12 procedural option, and that would be to simply carry this as a
13 recessed open meeting item and set a date to bring it up again.
14 We could do that in lieu of having to notice a special meeting.
15 I don't know if that's procedurally proper under the Public
16 Meetings Act.

17 CHAIR LUCE: All right. How soon do you think you
18 could have these materials available for us?

19 MR. POSNER: Well, we could...

20 MS. TALBURT: I could have the material to Mr. Moss
21 by tomorrow.

22 CHAIR LUCE: Maybe to all Councilmembers by tomorrow.

23 MS. TALBURT: All Councilmembers, yes.

24 CHAIR LUCE: And recess until -- Dennis, what's your
25 schedule like? Well, what are other Councilmember schedules

1 like?

2 MR. MOSS: I could get to this very quickly, I'm
3 sure. Not tomorrow, but soon.

4 CHAIR LUCE: Should we shoot for Friday?

5 MS. TALBURT: (Nods head.)

6 CHAIR LUCE: All right. Do Councilmembers have a
7 preference during the day? Morning? Afternoon?

8 MR. MOSS: I think I would prefer to shift it over
9 until early next week if we can.

10 CHAIR LUCE: Early next week works, too.

11 MR. MOSS: Yeah, that would be better for me. That
12 way I can work on it on the weekend.

13 CHAIR LUCE: Okay. Pick a day.

14 MR. MOSS: How about Tuesday?

15 CHAIR LUCE: Pick a day. Tuesday is the day.

16 Pick a time: Morning or afternoon?

17 MS. ADELSMAN: What's Tuesday? The 23rd?

18 MS. TALBURT: I believe so.

19 CHAIR LUCE: Yeah.

20 MR. POSNER: The 23rd.

21 MR. MOSS: And we'll just do it again at 1:30 --

22 CHAIR LUCE: All right.

23 MR. MOSS: -- if other people are available.

24 MR. POSNER: Okay.

25 MR. MOSS: And I would suggest further that we could

1 convene by teleconference bridge line.

2 MS. ADELSMAN: Yeah.

3 MR. MOSS: People won't need to show up in person.
4 We have the facilities here in Room 206, and if that doesn't
5 work, we have similar facilities in Room 108.

6 MR. POSNER: Just so we make sure we get you the
7 information that you would like to review, would you like to see
8 all of the agency proposals, as well as the draft contracts? Is
9 that -- and would that...

10 MS. ADELSMAN: You have them electronically, don't
11 you?

12 MR. POSNER: Yes.

13 MS. ADELSMAN: Yeah.

14 MR. POSNER: Okay.

15 MR. MOSS: Sure. I think that would probably tell us
16 what we need to know --

17 MR. POSNER: Okay.

18 MR. MOSS: -- and what everybody is doing and...

19 MR. POSNER: You would see all -- you would see the
20 scopes of work. You would see the budget in detail.

21 MR. MOSS: All right. And we can read selectively --

22 MR. POSNER: Right.

23 MR. MOSS: -- to our heart's content.

24 MR. POSNER: Right.

25 MS. TALBURT: I'd also like to --

1 MS. ADELSMAN: And then if there's any input from
2 Energy Northwest.

3 CHAIR LUCE: I think somebody was trying to say
4 something on the phone.

5 MS. ADELSMAN: I think there is somebody from Health.

6 MR. BRICE: This Ryan Brice from the Department of
7 Health. If I could add a little piece of information.

8 Can everybody hear me?

9 CHAIR LUCE: Yes.

10 MR. BRICE: I can't hear all of the conversation, so
11 I may have missed it. This may have already been mentioned, but
12 the EP programs do go through a full evaluation by FEMA every
13 two years, so most recently that was August of 2012.

14 I know you guys were talking about not being sure how
15 well evaluated this is left, so I just wanted to add that piece
16 that, as of August of 2012, FEMA evaluated all of the offsite
17 response organizations in the EP program and fully approved of
18 the way they all work.

19 CHAIR LUCE: Thank you.

20 MR. FRYHLING: Are we getting some feedback, or is
21 somebody talking on the phone?

22 MS. ADELSMAN: Yeah.

23 CHAIR LUCE: It sounds like we've got some feedback.

24 MR. FRYHLING: It's been going on and on here for
25 about 10 minutes.

1 CHAIR LUCE: Let's be quiet and listen and see if we
2 can figure it out.

3 MS. ADELSMAN: I'm sorry. Can I...

4 CHAIR LUCE: Oh, sure.

5 MS. ADELSMAN: I know we talked about the afternoon,
6 but I do have a full-day meeting in the afternoon starting at
7 one.

8 Can we do it in the morning by phone?

9 CHAIR LUCE: I'll do it anytime the Councilmembers
10 want to do it.

11 MR. MOSS: Morning. Morning is fine.

12 CHAIR LUCE: Morning.

13 MS. ADELSMAN: Like maybe even eleven?

14 MR. FRYHLING: Nine o'clock? Maybe ten?

15 MS. ADELSMAN: I mean, how long is it going to take?
16 Just say, an hour?

17 MR. POSNER: Well, it shouldn't...

18 MR. FRYHLING: Five minutes.

19 MS. ADELSMAN: Ten o'clock?

20 CHAIR LUCE: Ten o'clock.

21 MR. POSNER: Ten o'clock.

22 MS. ADELSMAN: Okay. Thank you.

23 CHAIR LUCE: Okay. Next Tuesday --

24 THE CLERK: So this is going to be a conference call?

25 CHAIR LUCE: Yes. The matter is set over until next

1 Tuesday at ten a.m.

2 MS. ADELSMAN: Sorry.

3 CHAIR LUCE: During the interim period, Staff will
4 provide copies of the contracts and the scope of work, which
5 includes the scope of work and other documents as may be
6 requested by Councilmembers after they look at what is provided.

7 MR. HAYES: Chair, if I May, I just had a question.

8 I wonder whether some of the review of that
9 documentation could be incorporated into the resolution, or if
10 that's appropriate?

11 CHAIR LUCE: If you think it's appropriate, we could
12 certainly incorporate it. I'm comfortable with the resolution.
13 The only question I had was one that's been previously asked,
14 which is I don't think there's a substantive standard for
15 "organized and managed adequately to meet program
16 requirements...."

17 I mean, you know, it would be nice if there was a
18 rule you could measure this against, but I think that that's --
19 to some significant extent, that's a qualitative judgment and
20 also backed up by FEMA and the NRC, which is whether they think
21 that's adequate, which, in the end, is really what matters.

22 MR. HAYES: Yeah. I think -- I mean, my thought was
23 that, you know, indicating that these plans have been reviewed
24 by FEMA.

25 CHAIR LUCE: Okay. Yeah. You want to -- we can...

1 MR. POSNER: We can make some edits to the resolution
2 and send that as part of the package, and then you can take a
3 look at it and see if that satisfies your concerns.

4 MR. HAYES: Thank you.

5 CHAIR LUCE: So carried over until next Tuesday at
6 ten a.m. by conference call. Materials to be provided just as
7 discussed.

8 And if we have questions, let's try and get questions
9 to Council on Monday so that we don't wait until Tuesday at ten
10 o'clock.

11 Anything else on that matter? Good discussion.

12 The next item on the agenda is WNP 1 and 4.

13 MR. POSNER: I believe that we've already -- Shannon
14 already gave the update on WNP 1 and 4.

15 CHAIR LUCE: Oh, that's right. Okay. Yeah. All
16 right.

17 And the next item after that?

18 MR. FRYHLING: Whistling Ridge.

19 CHAIR LUCE: Whistling Ridge.

20 Ann, do you have a report for us on Whistling Ridge?

21 MS. ESSKO: The State's brief was filed in the
22 Supreme Court on Friday afternoon. Friends of the Columbia
23 Gorge and Save Our Scenic Area's brief in reply is due on May
24 13th.

25 I should also mention that the Respondents,

1 Intervenors, Whistling Ridge, and the Counties also filed their
2 briefs on Friday afternoon, and oral argument is currently set
3 for June 27th in the Supreme Court -- in the State Supreme
4 Court.

5 CHAIR LUCE: Thank you.

6 MR. FRYHLING: Jim, before -- can we...

7 CHAIR LUCE: Yeah, please.

8 MR. FRYHLING: I think we -- I just wanted to thank
9 Ann for all of her hard, hard work she's done in the last two or
10 three months on this. It's really been excellent and great, so
11 I appreciate it.

12 CHAIR LUCE: I want to echo that, and I know others
13 on the Council feel the same way.

14 MS. ADELSMAN: Yes.

15 CHAIR LUCE: You really did a stupendous job of
16 boiling this case down, from our perspective, to its essence,
17 and the writing is outstanding. It's clear. It's unambiguous.
18 It's really good writing.

19 MS. ESSKO: Thank you.

20 MS. ADELSMAN: That's true. I even printed a copy
21 and read it even though -- it was good. It was very good. Good
22 job.

23 CHAIR LUCE: Dennis -- not Dennis.

24 Stephen, do you have anything else to add on
25 Whistling Ridge?

1 MR. POSNER: No, I don't.

2 CHAIR LUCE: All right. Any other Councilmembers
3 have anything to add?

4 Let's talk about other projects.

5 MR. POSNER: Okay. I wanted to give the Council an
6 update on a couple other projects that we've been made aware of.
7 These are crude-by-rail projects, and the first one is the
8 U.S. Development Group. It is a proposed new facility at the
9 Port of Grays Harbor, and we most recently received a letter
10 from them on March 22nd. It's a revision to an original
11 proposal concerning describing a redesigned project. And as the
12 project's currently designed in the letter, it's -- it comes in
13 at below the EFSEC threshold of 50,000 barrels per day.

14 We are in the process of finalizing a response letter
15 to this proposal. We have some questions. We were going to
16 request some more follow-up information from them.

17 And then the other project is Targa facility, and
18 that's a proposed facility at the Port of Tacoma. And we
19 received a letter from the project in March and we sent them a
20 response letter and -- essentially that we reviewed and
21 evaluated their proposal, and the letter informed them that we
22 believe they fall under EFSEC jurisdiction.

23 And that's all I have. I'd be happy to answer any
24 questions.

25 CHAIR LUCE: The only comment I would have is on the

1 Grays Harbor project. I don't want anybody to conclude that
2 we're not -- that we're accepting the fact that we do not have
3 jurisdiction. The proposal seems sometimes to change based
4 after our discussions on what constitutes jurisdiction.

5 And it's not to suggest that -- anything at all,
6 except to say that we do have some questions about that
7 particular facility, and the question in part is what's the
8 capacity to receive more than an average of 50,000.

9 So no one should walk away here thinking that we
10 don't have jurisdiction over the Grays Harbor project.

11 MS. ADELSMAN: Stephen, on the one in the Port of
12 Tacoma?

13 MR. POSNER: Yes?

14 MS. ADELSMAN: Did we get a response to our letter
15 back saying that we do have jurisdiction or not yet?

16 MR. POSNER: Well, the final letter was sent out on
17 Friday.

18 MS. ADELSMAN: This Friday?

19 MR. POSNER: Yes, last Friday, and so, no, we haven't
20 received anything formally back from them.

21 MS. ADELSMAN: Did we get a copy of that?

22 MR. POSNER: We can make that available to you,
23 certainly.

24 MS. ADELSMAN: Please.

25 MR. POSNER: It's not in the packets, but we can get

1 you a copy of that.

2 MS. ADELSMAN: Yeah, I would like to see a copy of
3 it.

4 CHAIR LUCE: All right. Anything else, Stephen,
5 under "Other Projects"?

6 MR. POSNER: That's all I have.

7 CHAIR LUCE: All right. EFSEC Council fourth quarter
8 cost allocation?

9 MR. POSNER: Okay. As we do the beginning of each
10 quarter, we recalculate the nondirect cost allocation. There is
11 a sheet in your packets. And for those on the line, I will go
12 ahead and read the percentages for the fourth quarter of fiscal
13 year 2013.

14 Kittitas Valley Wind Project is 10 percent; Wild
15 Horse is 10 percent; Columbia is 26 percent; WNP 1 is 4 percent;
16 Whistling Ridge is 15 percent; Satsop Combustion Turbine Project
17 is 10 percent; Chehalis is 10 percent; Desert Claim is 3
18 percent; BP Cogen is 2 percent; and Grays Harbor Energy is 10
19 percent.

20 And that's all I have.

21 CHAIR LUCE: I don't find the sheet in my packet.

22 THE CLERK: It's in the left-hand side.

23 MS. ADELSMAN: Oh, it's right behind the minutes.

24 CHAIR LUCE: It's behind the minutes. Oh, all right.

25 All right. Behind the minutes. Okay. Got it. Thank you.

1 Have you had any -- have you had discussions with
2 individual licensees regarding any of these figures?

3 MR. POSNER: No, we don't typically. We make the
4 information available to them, but we don't typically discuss
5 them with them.

6 CHAIR LUCE: Have you had any objections from any --

7 MR. POSNER: No.

8 CHAIR LUCE: -- licensees?

9 MR. POSNER: No.

10 CHAIR LUCE: All right. Does this matter require
11 Council approval, or is this --

12 MR. POSNER: No --

13 CHAIR LUCE: All right.

14 MR. POSNER: -- it does not.

15 CHAIR LUCE: All right. Councilmembers have any
16 questions regarding cost allocation?

17 The next item on the agenda is legislation update.
18 House Bill 1374 -- I think that's the right number.

19 MS. ADELSMAN: Mm-hm.

20 CHAIR LUCE: -- is dead. It passed the House and
21 died, and the Senate did not have a hearing.

22 And I don't anticipate any EFSEC legislation being
23 proposed through other means, such as the budget or otherwise.
24 It's always possible until the legislature goes sine die that
25 somebody will do something, but it's not expected.

1 MS. ADELSMAN: Mr. Chair, can I ask a question?

2 CHAIR LUCE: Yes.

3 MS. ADELSMAN: In the House budget for Ecology, there
4 was a line item that corresponded to the cost we put in in the
5 fiscal note that we did for 1374, which is at bay, the air
6 program rules.

7 I wanted just to see whether other agencies,
8 especially UTC, whether there was any money in their budget from
9 the House that would be related to the fiscal note on 1374.

10 CHAIR LUCE: Not to my knowledge.

11 MS. ADELSMAN: So are we just special?

12 CHAIR LUCE: No, I'll never admit that. Maybe you
13 have better communicators with the legislature than we do,
14 but...

15 MS. ADELSMAN: I don't know, but it is definitely
16 related to the cost associated with 1374.

17 CHAIR LUCE: Well, maybe 1374 still has life
18 somewhere in the budget, you know? I don't think so.

19 MS. ADELSMAN: I'm just kind of curious about --

20 CHAIR LUCE: Yeah. I'm...

21 MS. ADELSMAN: -- UTC, if maybe you guys can check?

22 CHAIR LUCE: Maybe, Stephen, can you check with UTC
23 and see --

24 MR. POSNER: Sure.

25 CHAIR LUCE: -- if there's anything in the budget?

1 MR. POSNER: Yes.

2 MS. ADELSMAN: Yeah, check with -- is it Ann?

3 CHAIR LUCE: Yeah.

4 MS. ADELSMAN: Yeah.

5 CHAIR LUCE: All right. The next item on the agenda,
6 rule making discussion.

7 We have previously talked about the need, in my mind,
8 to go forward with some additional rule making. And
9 Councilmembers have had a chance to review a Preproposal
10 Statement of Inquiry, which I've handed out -- I didn't hand it
11 out. It's included in the packets today.

12 And I think what I would like to do is since
13 Councilmembers have had a chance to review this, I would like
14 maybe -- Dennis, can you walk us through the process from a
15 process perspective in terms of how rule making would proceed
16 under the UTC model?

17 We won't commence rule making until the legislature
18 goes sine die, but the concept is to move forward with rule
19 making to the extent that it's necessary. The preproposal lays
20 out specific areas of possible inquiry, and we would look to
21 begin this discussion with a workshop and bring stakeholders
22 together to discuss whether and to what extent they agree with
23 the statement of inquiry and what else would they believe might
24 be appropriate to discuss.

25 It became clear in discussing each bill, House Bill

1 1374, in the couple of workshops that Representative Morris
2 held, that there is a perceived need among many of the
3 stakeholders for changes in terms of EFSEC's governance model.

4 So this will be an opportunity to address that need
5 and for the Council to discuss that and maybe to lay a
6 foundation where rules are now the best way to proceed a
7 foundation for other avenues as well.

8 So, Dennis?

9 MR. MOSS: Yeah. And I did bring along a visual aid
10 I'll pass along. This is from another rule making that the UTC
11 is conducting right now.

12 Just by way of background and context, at the UTC, we
13 conduct rule makings generally following a pattern of process
14 that is both broad and inclusive. We have a rules coordinator,
15 as do all agencies. In our case, it's Kippi Walker, who is a
16 senior paralegal in the Administrative Law Division in the
17 agency, which is where the administrative law judges are housed,
18 as well as the Records Center. She is responsible for
19 coordinating our efforts with the code reviser and is something
20 of the rule making guru of the agency.

21 Those of us who work in the Administrative Law
22 Division as administrative law judges participate in all agency
23 rule makings. We are the process monitors, if you will, and try
24 to give guidance to the process of rule making so that we are
25 comfortable that all the requirements of law are met and that

1 people are given their full opportunities to participate in an
2 equal way.

3 In addition, we assign -- I don't know how we'll do
4 it in this case, Ann, but we always have a member of the
5 Attorney General's Office handy to us, and that person's role is
6 distinct from that of the lawyer person from the Administrative
7 Law Division. It is a more substantive role. So you, or
8 whomever would fill that slot, would be responsible for ensuring
9 that we do -- what we do is consistent with what the statutes
10 require because, of course, ultimately, the statutes constrain
11 anything we might want to do in terms of rules.

12 The way we typically proceed is, as we have sort of
13 started down the path here -- and this is also -- is required by
14 the code reviser's office -- we have to initiate a Preproposal
15 Statement of Inquiry, also known as a "CR 101," which is the
16 form you have there. I would call this a "draft," because I
17 noticed as I glanced at it that it's got a comment or two that I
18 have made when it was circulated questioning, for example, why
19 the head of the UTC Regulatory Services Division is identified
20 as a contact. Clearly, this was drawn from some earlier rule
21 making which that was pertinent. Here, I suppose, we would want
22 to identify Mr. Posner or someone else in that role.

23 But the Preproposal Statement of Inquiry is intended
24 just to initiate a process really. We typically state the
25 purpose in the subject section there, "Subject of possible rule

1 making" very broadly. And particularly in a context such as
2 this one where the idea is to take an overall look at our rules,
3 we want to make sure that this statement is sufficiently broad
4 to let us do that.

5 Once we initiate such a broad inquiry, anything we
6 want to consider about the EFSEC rules needs to be undertaken
7 within the context of whatever proceeding number is assigned to
8 the inquiry. You can only have one rule making matter open at a
9 time with respect to any given chapter of the Washington
10 Administrative Code, so this will be the context in which we
11 make any changes to the extent that's indicated.

12 Now, the inquiry is just that. It's an inquiry.
13 It's a time when we raise the question and ask the stakeholders
14 to participate with us and work with us and help us come to an
15 understanding as to whether changes are needed, what those
16 changes should be, whether there should be additions, deletions,
17 what have you. So it's an opportunity to have a really broad
18 discussion about the rules that are the subject of the inquiry.

19 So, you know, I would suggest -- recommend if we're
20 going to go forward with something, that we do have a CR 101
21 that is at least as broadly stated as this, and we probably want
22 to look at this very carefully to make sure we're not limiting
23 ourselves in some unintended way.

24 Now, what I have passed out is a document that --
25 well, let me back up half a step.

1 We attached to the CR 101, what you see here, it's
2 the Washington Utilities and Commission attachment. I suppose
3 it would be EFSEC attachment in this instance. And, basically,
4 this is just -- expands on the CR 101 in terms of explaining to
5 the public, to the stakeholders how they may contact us, how
6 they may participate in this, how they may be kept informed with
7 respect to what's going on in this matter, and so that's all
8 laid out there.

9 And what we have up here -- again, this is taken from
10 an earlier version of one of these attachments, and so it refers
11 to specific things like providing documents on 3 1/2-inch
12 IBM-formatted, high-density disk. Well, as I have commented on
13 that, that's dated technology, and so we will update these
14 things, of course, to reflect the more modern options in terms
15 of contact options.

16 Now, in addition to that, the document that I passed
17 out today is another one that we typically issue in our practice
18 of rule making, and this is encaptioned (as read): "Notice
19 Extending Time to File Written Comments and Notice Rescheduling
20 Workshop," implying by its title there was an earlier notice
21 setting a time to file written comments on this particular rule
22 making, which is the UTC's procedural rules. We just initiated
23 a rule making at UTC to consider our own procedural rules.
24 Again, we do this about every three to four years, so we just
25 decided to expand the subject matter that we want stakeholders

1 to help us with. And we also have some other matters pending at
2 the agency right now that wants us to -- makes us want to stall
3 briefly the consideration of some other issues; that this would
4 not be timely -- a good time to discuss those in a rule making
5 context. So we issued this notice extending the time for
6 written comments and explaining in detail -- that's what the
7 bullet points are on the back.

8 I know you all can't read this. I should have
9 brought additional copies for those of you here, but this is a
10 series of bullet points describing specific points that the
11 agency, at least, identifies as being ones worthy of discussion
12 and consideration. And this is not an exclusive list. It's
13 just our list, so this is something of a starting point for
14 discussion.

15 And I won't read these. I'm sure it will bore
16 everyone here who doesn't practice before the UTC, but it's a
17 fairly comprehensive list. And we also identify -- and what we
18 identify principally here are existing processes and rules that
19 we think may need some tweaking or change, and also some new
20 ones, some possible new requirements.

21 There's been some initiative across the State at the
22 Governor's office, legislature, to bring about some new
23 processes and procedures for handling the type of work we do at
24 the UTC, which is basically economic regulation of utilities,
25 and so that's what some of the new stuff is about.

1 We do typically have at least one stakeholder
2 workshop and one live workshop typically in this room. We set
3 things up in a little bit more friendly way with tables and
4 chairs and everybody sitting around in a more conversational
5 model. Sometimes we have a facilitator in those, oftentimes,
6 the judges. I might even see -- fill that role. And so we'll
7 invite all the stakeholders to come, and we'll have that
8 conversation.

9 In a rule making of this scope, Chairman Luce --

10 CHAIR LUCE: Yes.

11 MR. MOSS: -- I would expect we'd have more than one?

12 CHAIR LUCE: I would expect that.

13 MR. MOSS: And we have had -- I've been involved in
14 rule makings at the UTC where we have had sometimes as many as
15 five or six. If the subject matter is big enough, important
16 enough, and there's enough money involved, that indicates we
17 probably should have more process rather than less.

18 We also invite written comments, and we allow people
19 to submit those by whatever means. They can write a letter.
20 They can e-mail. They can submit it through our web portal,
21 what have you, so -- and that's a more or less ongoing process.

22 Now, we do set some dates. We say, "Please file your
23 written comments on these subjects by such and such a date,"
24 and the reason we do that is typically in advance of a workshop.

25 So if you want to have -- if you want to file written

1 comments, if stakeholders wish to do that, then those can be
2 prepared in a timely way relative to the scheduling of the
3 workshop. The agency itself and the staff of the agency will
4 prepare written materials, and those will be distributed from
5 time to time. It may be a series of questions. It may be
6 something like these bullet points. But in any event, the idea
7 is to keep the stakeholder community informed as to what the
8 Staff's thinking is as well.

9 All of that process continues for as long as it needs
10 to continue, up to the point, perhaps, of some rules being
11 brought forward. And we also solicit rule language from
12 stakeholders. If people want to propose specific rules or
13 specific amendments, we ask that they let us know what they
14 think the rule ought to say.

15 If we get to the point where we feel like we want to
16 go forward with rules or rule revisions, that's when we turn to
17 the CR 102 process. And that is the -- those are proposed
18 rules, and that will be something the Council would have to vote
19 on, and say, "You know, we want to consider the adoption of
20 these rules."

21 And so that process then would become -- it goes into
22 a higher state of formality, if you will. There are a lot of
23 deadlines we have to meet. There's certain processes that are
24 mandated in terms of giving stakeholders certain periods of time
25 to respond to proposals and what have you. We go through that

1 process. And if we get to the point where we're comfortable
2 that we want to vote on something, then that, again, comes back
3 to the Council, and the Council can either say "yea" or "nay" or
4 send it back. There are some time constraints. We can only
5 send it back so much.

6 Once we're in the 102 phase, it's not as much of a
7 free-for-all. Once the proposed rules are out there, we can't
8 make a substantial change. That's a standard in the law. We
9 can't make a substantial change without a supplemental CR 102,
10 so the public and stakeholders are kept fully informed in all
11 phases and have -- and do have rights relative to the possible
12 issuance of actual rules.

13 Now, I keep using the word "possible" or "maybe" with
14 respect to the rules. A CR 101 process can also lead to other
15 outcomes. At the UTC, these sometimes lead to an interpretive
16 and policy statement, which is something that's discussed in the
17 Washington Administrative Procedure Act in Chapter RCW 34.05, so
18 that's another possibility.

19 We could decide that we don't -- we're not ready to
20 change the rules. We're not ready to adopt new rules. Instead
21 we want to comment on, if you will, in an informal way, the
22 rules that we have. An interpretive and policy statement is
23 meant to express the Council's current view of how its rules
24 apply, what they mean, and how they would be administered.

25 Another possibility is that we simply drop the whole

1 thing and say, "Well, we're not going to issue anything at this
2 time, we've had a lot of process, and we've become convinced
3 that everything is the way it should be for now. And we'll just
4 call this. We'll close it. We'll simply close it."

5 And so those are the basic three outcomes. If others
6 can think of other outcomes that they have experienced, I'll be
7 happy to be amended.

8 CHAIR LUCE: Hedia?

9 MS. ADELSMAN: I'm assuming your rules, because ours
10 are subject to the small business economic impact --

11 MR. MOSS: That's right.

12 MS. ADELSMAN: -- the SEPA --

13 MR. MOSS: That's right.

14 MS. ADELSMAN: -- to the least burdensome alternative
15 and all of those.

16 MR. MOSS: Right. Right.

17 MS. ADELSMAN: And I think that's where you're really
18 starting to talk about the cost?

19 MR. MOSS: Yeah. A small business economic impact
20 statement is required --

21 MS. ADELSMAN: Yeah.

22 MR. MOSS: -- in certain circumstances. And not one
23 hundred percent, but almost every one I've ever been involved in
24 that's happened.

25 MS. ADELSMAN: Yeah.

1 MR. MOSS: And that's something that's done with the
2 agency --

3 MS. ADELSMAN: Yeah.

4 MR. MOSS: -- the small business economic impact
5 statement. I'm not sure to what extent SEPA might be
6 implicated, but that's a possibility as well.

7 MS. ADELSMAN: More likely, at least, during your
8 checklist.

9 MR. MOSS: Yeah.

10 MS. ADELSMAN: You know, at least for us, it takes
11 two years, and I would say easily a full-time person-plus to do
12 rule making. And I would suspect it would be similar in this
13 case if you're looking at the expanded rule making; that we'd be
14 looking at new areas that we haven't done before, addressed
15 before.

16 EFSEC in the past has historically adopted rules that
17 Ecology has adopted and gone through the process, so it was
18 easy. But we have adopted some new rules that got adopted by
19 others, but they usually have not been supercomfortable in these
20 procedures, but...

21 MR. MOSS: I think that's a fair estimate. The last
22 time we redid the procedural rules at the UTC, it did take two
23 years.

24 MS. ADELSMAN: Yeah.

25 MR. MOSS: And we rewrote the entire chapter. In

1 fact, we -- actually, what we did was we created a new chapter
2 and the old one became a thing of history.

3 And that may happen again this time. I'm not sure.
4 I'm anticipating that our current rule making, the one that I
5 brought the sample notice from, that's going to take at least a
6 year and possibly two.

7 If we're looking at a comprehensive overview and
8 rewrite of the EFSEC rules, I would say we're looking, yes, at
9 a year or two, a long process, would be my best guess.

10 CHAIR LUCE: I would agree with that.

11 MR. MOSS: And you do need a rule lead, I think, to
12 guide the process. We usually work as teams at the UTC, and the
13 teams may be as small as one. And some of the ones I have
14 participated in -- or, actually, some of the ones I have run, it
15 was a team of one, although with outreach to others in the
16 agency. And then in some rule makings, we may have a dozen
17 people assigned to the team, and they may work as much as -- 15
18 to 20 percent of their work schedule may be devoted to it. It
19 depends.

20 When I-937 passed, we had to undertake some fairly
21 intensive efforts to get those rules implemented at UTC within
22 the time frames established by the legislature. We always love
23 it when somebody imposes a time schedule on us. We have to
24 devote more resources to get something done, but, you know,
25 that's usually the way it is.

1 Here we don't have that hanging over us --

2 CHAIR LUCE: Mm-hm.

3 MR. MOSS: -- so we can handle it -- manage it pretty
4 well as we see fit at this stage anyway.

5 CHAIR LUCE: Councilmember questions?

6 MS. ADELSMAN: I actually heard that Representative
7 Morris is going to be looking at doing something in the interim,
8 so that would be kind of an interesting thing if we start the
9 rule making process while he's still trying to make --

10 CHAIR LUCE: Yeah. I had a discussion --

11 MS. ADELSMAN: -- legislative changes.

12 CHAIR LUCE: Yeah. I had a discussion with
13 Representative Morris during the pendency of his legislation and
14 suggested that if the legislation did not move forward, that it
15 was my hope that we would move forward with the rule making.

16 And I invited him, and I will reextend that
17 invitation to join us, he and his staff, in the workshops and
18 otherwise, because I think that that would be beneficial to
19 everyone involved. We can better perhaps define what can be
20 done through administrative rules and what would necessarily be
21 done by legislation.

22 So I think your point is well taken, Hedia. I've had
23 this discussion, and I believe that he will be -- I have every
24 reason to believe he'll be receptive to that.

25 To build on a little bit on what Dennis said, the

1 last time we did a major rule making was in 2001. And you're
2 right. It took two years. And out of that came some
3 legislation, the -- first, actually, this first CO2 legislation
4 requiring mitigation for CO2 emissions for power plants.

5 We tried it again -- tried it. We issued another
6 CR 101 about two years ago, maybe 2 1/2, on alternative energy
7 rules. We were going to draft some rules to deal with
8 alternative energy facilities. For a whole variety of reasons,
9 we dropped it, and now it's back. I think it's back.

10 The rules -- this particular preproposal, probably
11 can to use some more work. It has been circulated among all
12 Councilmembers for their comments, and we have incorporated
13 those comments, and I particularly appreciate Dennis's edits to
14 this document.

15 I also flagged in the text a report that I wrote with
16 Councilmember help to the Governor evaluating the operations of
17 the Energy Facility Council and recommending changes.

18 That report is on our website, isn't it, Stephen?

19 MR. POSNER: Yes, it is.

20 CHAIR LUCE: So that will help those of you who might
21 be interested in things that the Council might want to discuss
22 if you review that.

23 So what I -- I guess I would recommend that we go
24 forward from here.

25 Dennis, help me here, but I think we need

1 Councilmembers to review the CR 101 again and see whether you
2 believe it's broad enough in scope -- I think it's pretty
3 broad -- and then to obviously revise the attachment, which does
4 need some work, and then set this matter for the next Council
5 meeting in May to discuss whether we're ready to go forward with
6 a CR 101 and workshops. And I would hope that the workshops
7 would come early.

8 And you're right, Dennis. They will come often -- or
9 not often, often. But as soon as the legislature goes -- leaves
10 town, then I think that would be the appropriate time to start.
11 I think it's a little presumptuous to begin before they finish
12 their business.

13 So Councilmember questions? Comments? Does that
14 sound like a reasonable way to proceed?

15 MR. MOSS: Works for me.

16 CHAIR LUCE: All right.

17 MR. STOHR: They may not be gone by May.

18 CHAIR LUCE: We're all hopeful that the people's
19 business will be conducted in the most expeditious manner.

20 MR. MOSS: He said it for the record.

21 CHAIR LUCE: So is there anything else to come before
22 the Council? Oh, yes, there is something to come before the
23 Council.

24 What do you think might lurk in this little box?

25 MS. ADELSMAN: I don't know. A little wind project?

1 CHAIR LUCE: A little wind project.

2 MS. ADELSMAN: Maybe a gas power plant.

3 CHAIR LUCE: Today is a bit of a happy day for me and
4 the Councilmembers, and a sad day. Hedia is leaving us. This
5 is her last day. And I think I -- I first met Hedia when I
6 worked for Bonneville and went into some discussions on Columbia
7 River issues, and I kept wondering, Who is that person from
8 Ecology that just keeps questioning everything I say? I mean,
9 you know, I make an obvious statement of fact and it's thrown
10 back in my face as being an opinion and a poor one at that.

11 So, you know, I went through this drill for -- I
12 don't know -- a year or so. And I thought, Well, thank God.
13 I'm now at EFSEC. All is well. You know, that's behind me.

14 So a funny thing happened on the way to Whatcom
15 County in the BP project consideration. I'm really happy and
16 I'm sitting up at the table and we're all ready to go. And I
17 think Liz Thomas was there. Maybe it was Karen McGaffey.

18 MS. ADELSMAN: Yeah.

19 CHAIR LUCE: And who walks through the door? Hedia.
20 I sort of had forgotten, but as soon as I was reintroduced, I
21 remembered.

22 MS. ADELSMAN: Bad memory.

23 CHAIR LUCE: It all came back, and I thought, Well,
24 now, this is going to be an interesting time, and we all learned
25 about a lot about blue herons and voles and whether the voles

1 could be disturbed by noise that was some distance away and
2 whether the Canadians would be overly concerned or -- we learned
3 a lot of things.

4 Out of that, I learned that I really do appreciate
5 Hedia. I mean, I appreciated her probing questions and her
6 willingness to challenge anything and everything and usually
7 come up with maybe a better way to approach things.

8 So, Hedia, you're going to be missed.

9 MS. ADELSMAN: Thank you.

10 CHAIR LUCE: And we have here -- somewhere in here.
11 Let me dust it off a little bit.

12 MS. ADELSMAN: It's just Styrofoam.

13 CHAIR LUCE: I know, but it's probably
14 environmentally hazardous.

15 Reading (as read): "Hedia Adelsman, EFSEC
16 Councilmember. In recognition of your excellent service and
17 many contributions to the Energy Facility Site Evaluation
18 Council, 2004 through 2013."

19 And it's my honor to present this to you on behalf of
20 the Council.

21 MS. ADELSMAN: Oh, thank you.

22 CHAIR LUCE: And speech.

23 (Applause.)

24 MS. ADELSMAN: Thank you so much. It is true that
25 Jim and I had our little conversation -- I would say sometimes

1 heated -- about instream flow and, you know, trying to waive
2 some requirement. And I wasn't going to do any of that, so --
3 but I think the last nine years being on the Council has been an
4 incredible learning for me. I, you know, honestly learned so
5 much, you know, about blue heron, shadow flickers, you name it.
6 Things that I don't think I would have really even got into a
7 book to learn about, and it's been an excellent experience.

8 I enjoyed very much working with all Councilmembers,
9 and attorney, both Ann and Kyle, hearing all the reports from
10 the -- both the operators, the owners of the plants, the
11 applicant. It has been an incredible journey of knowledge to me
12 from, you know, the day -- the first day in Whatcom County with
13 BP, all the way to now. And I really thank you for sharing all
14 the information, knowledge, and for, you know, putting up with
15 me.

16 Thank you so much, and thanks to all the Staff -- my
17 gosh. I shouldn't forget that -- you know, for all the hard
18 work you guys do continuously.

19 And I have seen some of you, especially Tammy, from
20 the beginning, and then some of you came later. But I
21 appreciate all your hard work. Thank you.

22 CHAIR LUCE: Thank you.

23 And Councilmembers any --

24 MR. FRYHLING: Hedia, I think having you on the
25 Council for the last -- since 2004, all the projects we worked

1 on have become better projects because of your input.

2 I first started running into Hedia back -- in '91, I
3 came back to work for State government, and no matter what kind
4 of meeting I went to, Hedia was there. I mean, dealing with
5 water, I went to drought meetings, Hedia was there. I went to
6 flood meetings, Hedia was there. I went to work on various
7 basin projects, Hedia was there. And then she got very involved
8 in growth management, and she was very involved in SEPA process,
9 and so I -- no matter where I went, she was always there.

10 And then I thought when we came on -- when she came
11 on here in 2004, we had a real great addition to the Council.
12 And as I have said every time I have met with Hedia, I have
13 learned a lot on the environment and Washington State, so
14 thanks, Hedia.

15 MS. ADELSMAN: Thank you.

16 CHAIR LUCE: Well --

17 MS. ADELSMAN: I should say something quickly,
18 because, originally, I was thinking about retiring at the end of
19 June, and then after discussion with the Governor's office and
20 my director and deputy, I decided to reconsider and do it in
21 December so I can work on the Governor climate change bill and
22 ocean acidification, so -- but I think Cullen -- I want to
23 introduce Cullen Stephenson.

24 CHAIR LUCE: Hello, Cullen.

25 MS. ADELSMAN: Cullen is going to be the new EFSEC

1 representative for Ecology, and he comes with an excellent,
2 excellent background. Cullen works in the air program right
3 now, but he has worked in the partnership. He worked at the
4 Department of Natural Resources. He's done a lot of things.

5 And I don't know.

6 Mr. Chair, can Cullen say a couple things now, or do
7 you want him to do it --

8 CHAIR LUCE: No, no, no.

9 MS. ADELSMAN: -- in May? Do it in May?

10 CHAIR LUCE: It's totally out of line.

11 MS. ADELSMAN: Okay.

12 CHAIR LUCE: I don't think anything is appropriate...

13 Of course Cullen can come up here and say something.

14 MS. ADELSMAN: But Cullen will be at the meeting in
15 May, so...

16 CHAIR LUCE: Yeah, speak for yourself, Cullen.

17 MR. STEPHENSON: I'll say one thing, which is I'm
18 working very hard to have Hedia continue on the Council till the
19 end of the year when she officially retires.

20 CHAIR LUCE: Yeah.

21 MS. ADELSMAN: Just transitioning, so...

22 MR. FRYHLING: She can't do that now. She's got her
23 plaque.

24 CHAIR LUCE: Yeah, that's right.

25 MS. ESSKO: And her cake.

1 CHAIR LUCE: And her cake.

2 MR. FRYHLING: And her cake.

3 CHAIR LUCE: So let's all adjourn to Hedia's cake.

4 MS. ADELSMAN: Thank you.

5 CHAIR LUCE: Thank you again, Hedia.

6 MS. ADELSMAN: Thank you again, yes.

7 (Whereupon, the meeting was adjourned at 2:42 p.m.)

8 | -o0o-

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Telephone: 206.287.

C E R T I F I C A T E

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

I, SHELBY KAY K. FUKUSHIMA, a Certified Shorthand Reporter
and Notary Public in and for the State of Washington, do hereby
certify that the foregoing transcript is true and accurate to
the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal
this 25th day of April, 2013.

SHELBY KAY K. FUKUSHIMA, CCR

My commission expires:
June 29, 2013

Telephone: 206.287.

Kittitas Valley Wind Power Project

Monthly Project Update

April 16, 2013

Project Status Update

March Production Summary:

MWh 19,716 MWh

Wind 6.1 m/s or 14 mph

CF 26%

Safety:

No incidents

Compliance:

Project is in compliance as of April 9, 2013.

Sound:

No complaints

Shadow Flicker:

No complaints

Environmental:

Avian & Bat Fatality monitoring continues.

Raptor Nest surveys completed.

No stormwater discharge. The General Stormwater Permit has been terminated. A site visit with Ecy and EFSEC will take place sometime in May or June.

March, 2013

EFSEC Monthly Operational Report

Safety:

- There were no accidents or injuries in the month of March.
- Conducted monthly safety training in March.

Environmental:

- Submitted February DMR
- Completed CEMS Linearity Checks
- Received bids for RATA testing
- Submitted 2012 Greenhouse Gas (GHG) Report
- Completed Opacity Certification for three individuals

Operations & Maintenance:

- The unit operated 8 days during the month of March.
- The March capacity factor is 20.3%, and the YTD capacity factor is 8.7%.

Noise and/or Odor:

- Complaints:
 - No complaints were received during the month of March.

Site Visits:

- None

Other:

- None

**Chehalis Power----Monthly Plant Report to the Washington Energy Facility
Site Evaluation Council – March 2013**

1813 Bishop Road Chehalis, WA 98532

Phone (360) 748-1300, FAX (360) 740-1891

16 April 2013

Safety:

- There were no medical treatments or recordable incidents this reporting period and the plant staff has achieved 3815 days without a Lost Time Accident.

Environment:

- Storm water and waste water monitoring results are in compliance with the permit limits for the month of March 2013.
- The Chehalis Plant conducted a relative accuracy test audit (RATA) of the continuous emissions monitors (CEMS) during the month. Preliminary results indicate that both emission unit monitors passed with the exception for the measurement of ammonia on the unit #1 monitor. EFSEC and The Southwest Clean Air Agency were notified, the manufacture of the CEMS returned to the Plant to investigate the anomaly and initial plans made for a re-test on the unit #1 CEMS for ammonia.
- The annual Performance Testing of the auxiliary boiler was completed and reports submitted to EFSEC and SWCAA. There were not any compliance requirement discrepancies.

Personnel:

- Authorized plant staffing level is currently 19 with 18 positions filled.
- The plant Environmental, Safety & Health (EHS) position continues to be open and applicants are being interviewed.

Operations and Maintenance Activities:

- The Plant generated 131,163 mega-watt hours for a capacity factor of 35.0%.

Wild Horse March 2013 Report

Wind Production: March generation totaled 67,100 MWh for an average capacity factor of 33.08%.

Solar Production: The Solar Demonstration Project generated 64.3 MWh in March.

Safety: No lost-time accidents or safety incidents to report in March.

Compliance/Environmental:

As a follow-up to council member Hedia Adelsman's question regarding approval of the revised SPCCP by Ecology's Spill Program, Jeff Lewis, Spill Response Team Supervisor from the Department of Ecology Spills Prevention Program, reviewed the revised SPCCP, including the new Mobile Fuel system, and had no substantive comments.

In accordance with the Operations Stormwater Pollution Prevention Plan (SWPPP), a semi-annual (spring) inspection of stormwater BMPs was completed on March 26th. Overall site BMPs are in very good condition with no stormwater observed in any ditches. A few BMPs required maintenance, which was completed on March 28th.

**Energy Northwest
EFSEC Council Meeting
April 16, 2013**

I. Columbia Generating Station Operational Status

Columbia is operating at 100% power, generating 1,171 megawatts and has been online for 322 days.

Columbia is 25 days from the start of our 2013 refueling outage. Our outage is scheduled to begin on May 11th and run through June 15th. All departments and staff are fully focused on completing a successful outage.

There are no events, safety incidents, or regulatory issues to report.

II. WNP 1/4 Water Rights

Energy Northwest continues to work on the proposed lease agreement with the Department of Energy. A meeting between both parties is being planned for early May to discuss the new lease. If scheduling prevents an early May date, the meeting will likely be deferred until after the CGS outage.