



*SUBMITTED VIA E-MAIL*

July 14, 2025

Kurt Beckett, Chair  
Energy Facility Site Evaluation Council  
*Via email to [kurt.beckett@efsec.wa.gov](mailto:kurt.beckett@efsec.wa.gov)*

**Re: EFSEC's Procedures for Public Participation**

Dear Chair Beckett:

I write to you on behalf of Friends of the Columbia Gorge ("Friends") regarding the procedures for public participation of the Energy Facility Site Evaluation Council ("EFSEC" or "Council"). Friends is a nonprofit organization with approximately 4,000 members dedicated to protecting and enhancing the resources of the Columbia River Gorge, and with strong interests in responsible energy generation and the proper implementation of state law governing the approval, construction, and modification of large energy facilities in Washington.

On June 22, 2025, Friends submitted written comments to the Council regarding two separate matters:

- Draft Resolution No. 356, entitled "Amendment No. 3 to the Desert Claim Wind Power Project Site Certification Agreement Termination"
- Proposed Policy entitled "Delegating Certain Plan Approvals to the EFSEC Director" (Proposed Policy #16-01)

In Friends' written comments on these matters, we objected to EFSEC's choice for each of these matters to provide extremely short public comment periods that lasted **only three business days** (six calendar days, minus the Juneteenth holiday and two weekend days). We further explained that by providing such short comment periods on these matters, EFSEC was unlawfully short-changing the public on their rights to be meaningfully informed and fully participate in the Council's activities, and in the process was violating applicable statutory requirements of the Energy Facility Site Locations Act ("EFSLA"), the Washington Open Public Meetings Act ("OPMA"), and the Washington Administrative Procedures Act ("APA").

In apparent response to these objections by Friends and similar objections by other interested persons, you made the following remarks to your fellow Council members at the Council's June 25, 2025 monthly meeting, immediately following the discussion of Proposed Policy #16-01:

"I just want to acknowledge that from a process standpoint, EFSEC does work under some—you might think—unique number of statutes as a result of its kind of unique scope and authority in the state. And as a result, the public process that accompanies that is often not intuitive in terms of when public comments have to happen before an action, or after an action, and that does not always, I think, retail very well at the ground level. And I just want to acknowledge that I think those are issues that we're all committed to working on and improving."<sup>1</sup>

If your remarks were intended to include the two aforementioned matters, Friends respectfully requests that you please identify which unique statutes you believe required EFSEC to provide only three business days for the public to review and comment on these two matters. Friends is unaware of any such statutory requirements, and to the contrary, the truncated comment periods that EFSEC provided violated applicable statutes (as we have explained in our prior correspondence).

Friends does appreciate your pledge to improve the agency's procedures and timelines for public participation. However, despite your remarks, EFSEC on Thursday, July 10, 2025, at approximately 5:07 p.m. released a new version of Proposed Policy #16-01 for public review and comment, but this time EFSEC unfortunately provided **only two business days** for the public to review and comment on the revised Proposed Policy. Friends has objected to this even shorter public comment period under separate cover.

These egregiously short comment periods are unlawful and send the wrong message to the public that their participation is not welcomed and even actively discouraged.

In response to your remarks about improving EFSEC's procedures for public participation, Friends offers the following suggestions for potential ways to do so:

- **Allow oral public comments at monthly EFSEC meetings.** EFSEC is authorized by RCW 42.30.240(1) to allow oral public comments at its meetings, and most other state agencies do so. EFSEC's counterpart in Oregon, the Oregon Energy Facility Siting Council, also allows oral comments at its monthly meetings. In contrast, Washington EFSEC chooses to prohibit oral public comments at its meetings. Friends encourages EFSEC to revisit that choice. Allowing oral comments at EFSEC meetings would provide additional public participation opportunities that would balance out and reduce the impacts of deadlines for written public comments.
- **Provide adequate written comment periods on proposed action items (14 to 60 days).** Again, nothing requires EFSEC to provide written public comment periods of only two or three business days, and to the contrary, such truncated

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<sup>1</sup> Video available at <https://www.youtube.com/watch?v=VmOits4OqHI#t=1h43m46s> (timestamp 1:43:46).

comment periods violate applicable law. For most types of matters, EFSEC could and should provide comment periods of 14 to 60 days, depending on the complexity of the matter and the agency's flexibility for each matter.

- **Start written comment periods based on the necessary timing for providing adequate comment periods.** Based on EFSEC's current practices, EFSEC may be under the false impression that it needs to start all comment periods for a given month on the same day, when the monthly meeting is announced and the meeting packet released. There is no such requirement. Again, EFSEC could and should provide adequate written comment periods, which means starting these comment periods whenever they need to start, rather than starting them all one week or less before each meeting. Rather than releasing meeting agendas and proposed actions on the same day, EFSEC should start comment periods first, based on the necessary timing for providing adequate comment periods. Then, when it comes time to prepare the meeting packet for each meeting, all the proposed action items (most of which will have been previously released) can simply be compiled into the meeting packet. Again, it makes no sense to try to do all of the above on the same day, and EFSEC's current practice of doing so is severely prejudicing the public.
- **Adopt rules specifying procedures and public participation opportunities for EFSEC decisions and actions.** The best way to ensure that adequate procedures are followed and public participation opportunities are provided is to specify these items via agency rule. This should include rules that specify public notice requirements, comment periods, and, where appropriate, administrative appeal procedures. As it stands, the Council's Rules are largely silent on these topics, which only adds to public confusion and disenchantment with the agency.

Thank you very much for your time and professional courtesy. If I may be of any further assistance, please do not hesitate to contact me.

Sincerely,



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Nathan Baker, WSBA No. 35195  
Senior Staff Attorney  
Friends of the Columbia Gorge  
123 NE 3rd Ave., Suite 108  
Portland, OR 97232  
(503) 241-3762 x101  
nathan@gorgefriends.org

cc (via email): Council members Stacy Brewster, Eli Levitt, Elizabeth Osborne, Nate Pamplin,  
& Lenny Young  
EFSEC Staff ([efsec@efsec.wa.gov](mailto:efsec@efsec.wa.gov))  
EFSEC Comments ([comments@efsec.wa.gov](mailto:comments@efsec.wa.gov))  
Jonathan C. Thompson, Assistant Attorney General