

**WASHINGTON STATE
ENERGY FACILITY SITE EVALUATION COUNCIL**

**RESOLUTION NO. 293
ENERGY NORTHWEST CHANGE OF CORPORATE NAME**

Nature of the Action. By resolution dated November 19, 1998, the Executive Board of the Washington Public Power Supply System (WPPSS or the Supply System) voted to change the organization's name to Energy Northwest.¹

On December 3, 1999, the Supply System, through its Vice President R.L. Webring, requested EFSEC to amend each of three Site Certification Agreements (SCAs) between the Supply System and the State of Washington.² The requested amendments would update the SCAs by replacing references to the "Washington Public Power Supply System" with references to "Energy Northwest" in all applicable locations in the three SCAs.³

Background. Concurrent with its request to EFSEC and pursuant to chapter 43.52 RCW, the Supply System requested the Washington Department of Ecology (Ecology) to authorize this change in names to Energy Northwest. By order dated March 26, 1999, Ecology authorized the change, subject to the Supply System's formal adoption of the name.⁴

¹ The name of the utility was officially changed to Energy Northwest on June 2, 1999.

² The existing SCAs are:

- Site Certification Agreement between the State of Washington and the Washington Public Power Supply System for Hanford No. 2 Nuclear Electric Generating Facility, executed May 17, 1972; amended September 25, 1975; amended March 18, 1982.
- Site Certification Agreement between the State of Washington and the Washington Public Power Supply System for WNP 1 and 4 Nuclear Electric Generating Facility, executed August 8, 1975; amended March 18, 1982.
- Site Certification Agreement between the State of Washington and the Washington Public Power Supply System for the Satsop Combustion Turbine and Associated Natural Gas Pipeline, executed October 27, 1976; amended March 18, 1982; amended May 12, 1996; amended August 12, 1999.

³ The name will not be changed "across the board," because some of the terms of the SCAs have been fully accomplished by the Supply System prior to the change in name. Since execution of the SCAs, the names of some of the projects have changed as well. Project names will be updated during the present amendment process, as specified below.

⁴ At the time of the Supply System's application to Ecology, the name Energy Northwest was being used by a weatherization conference that promotes low-income weatherization techniques and weatherization training. Although the weatherization conference initially objected to the use of its name, Ecology had no jurisdiction under chapter 43.52 RCW to consider these objections. Subsequently, the Supply System and the weatherization conference reached a settlement allowing the Supply System to assume the name Energy Northwest.

After Ecology's authorization, the Supply System requested changes in the name of the licensee in its federal operating licenses. These changes have been executed by federal order. Specifically, on June 3, 1999, the Supply System requested an amendment from the Nuclear Regulatory Commission (NRC) to update its WNP-2 operating license. On August 2, 1999, the NRC issued Amendment 157, implementing the requested change.⁵ On August 13, 1999, the Federal Energy Regulatory Commission entered an order changing the name of the licensee in the Supply System's license for the Packwood Project, FERC 2244.

Procedural Status. EFSEC's amendment procedure is governed by chapter 80.50 RCW and chapter 463-36 WAC. Pursuant to WAC 463-36-030, the Council held a public meeting to receive comment during its regularly scheduled monthly meeting, December 13, 1999. Notice was mailed to interested persons on November 16, 1999.

The Council has reviewed the request for amendment under the procedures outlined in chapter 463-36 WAC and through this resolution amends the referenced Site Certification Agreements as described herein.

Discussion:

The Council's action here is strictly administrative in nature. The change in names does not affect the Supply System's organizational, financial, managerial, or technical ability to comply with the terms and conditions of the SCAs. The legal corporate status of the Supply System has not changed. The change in names has no substantive impact on the design, function, or operation of any plant structure, system, or component, either technically or administratively.⁶ Accordingly, the Council's action to amend the SCAs to reflect the change in names is strictly administrative. No substantive term or condition in the SCAs will be affected by the amendment.

Chapter 463-36 WAC governs the Council's procedure for amending a Site Certification Agreement. WAC 463-36-040 outlines the relevant factors for consideration prior to a decision to amend. Specifically,

...[i]n reviewing any proposed amendment, the council shall consider whether the proposal is consistent with:

1. [t]he intention of the original SCA;
2. [a]pplicable laws and rules; and
3. [t]he public health, safety, and welfare.

WAC 463-36-050 explains that the council's consideration of public health, safety, and welfare includes environmental concerns, as follows:

⁵ Facility Operating License No. NPF-21, amended on Docket No. 50-397. Notice of Issuance of the amendment was published in the Federal Register.

⁶ In its December 3, 1999 Request for Technical Amendment, Energy Northwest made these assurances to the Council.

In reviewing whether a proposed amendment is consistent with the public health, safety, and welfare, the council shall consider the short-term and long-term environmental impacts of the proposal.

The Council has considered these factors and concluded that the proposed amendment is consistent with each. Each of the Council's conclusions is discussed below.

A. Consistency with the public health, safety, and welfare.

Under WAC 463-36-040(3) and -050, the Council must consider whether the proposed amendment is consistent with public health, safety, and welfare, including environmental aspects of the public welfare.

The Council finds that this amendment has no effect on the health and safety of the public. In its amendment request, Energy Northwest assured the Council that the amendment will not affect its ability to comply with any term or condition of the existing SCAs affecting public health and safety. This finding is consistent with assurances made by the Supply System in its NRC application and with NRC findings.⁷ In its No Significant Hazards Consideration Evaluation, the Supply System concluded that the change in names (i) will not “involve a significant increase in the probability or consequences of any potential accident previously evaluated,” (ii) will not “create the possibility of a new or different kind of accident,” and (iii) will not affect the margin of safety at the plant.

The Council further finds that this amendment will not effect the environment in any way. This finding is also consistent with Supply System assurances and NRC findings. In its Environmental Assessment/Impact Statement, Attachment 3 to its NRC application, the Supply System concluded that the change in names involves (i) no significant change in the types or amounts of any effluent that may be released offsite, and (ii) no significant increase in individual or cumulative occupational radiation exposures.

B. Consistency with applicable laws and rules.

Under WAC 463-36-040(2), the Council must consider applicable laws and rules, including chapter 43.21C RCW and chapter 197-11 WAC (the State Environmental Policy Act and SEPA rules) and WAC 463-36-070 through -080.

1. Consistency with SEPA (chapter 43.21C RCW and chapter 197-11 WAC).

In general, SEPA requires an agency to perform a threshold determination to determine whether a proposed action will have a significant adverse affect on the environment. See WAC 197-11-305. The SEPA rules provide categorical exemptions for specified agency actions that clearly have no significant affect on the environment. If an agency action is categorically exempt, no

⁷ By letter dated June 3, 1999, the Supply System requested amendment of its NRC permit for WNP-2. Attachment 2 to the Supply System's application is the No Significant Hazards Consideration Evaluation required by NRC rule, 10 CFR 50.92.

environmental review is required. See WAC 197-11-720. Among the actions specified as categorically exempt are procedural actions of an agency, including the "...adoption of...resolutions...containing no substantive standards respecting use or modification of the environment..." WAC 197-11-800(20).

The Council finds that this resolution changing the name of the certificate holder in the three SCAs affects "no substantive standards respecting use or modification of the environment." In its amendment request, Energy Northwest assured the Council that the amendment will not result in any detrimental effect on the environment. This finding is consistent with the NRC's "finding of no significant [environmental] impact" published in the Federal Register, July 13, 1999 (64 FR 37819). Thus, the Council concludes that its action here is categorically exempt from environmental review under SEPA.

2. Consistency with WAC 463-36-070 and -080.

WAC 463-63-080 provides that

...[a]n [SCA] amendment which substantially alters the substance of any provision of the SCA or which is determined to have a significant detrimental effect upon the environment shall be effective upon the signed approval of the governor...

On the other hand, WAC 463-36-070 provides that

...[a]n amendment which changes a technical provision or requirement within the terms of the SCA, and constitutes no substantial alteration of any provisions of the SCA, and is determined to have no detrimental effect upon the environment, shall be effective upon adoption of a council resolution. (emphasis added)

Based on its previous findings that that (i) the proposed amendment has no environmental impact and no impact on public health, safety, and welfare; and (ii) does not alter the facility, its operation, its ownership, or its administration in any way, the Council finds that this amendment is "technical" in nature; it can and will be effective upon adoption of this resolution.

C. Consistency with intention of the original SCA.

Under WAC 463-36-040(1), the Council must consider whether the proposed amendment is consistent with the intention of the original SCA.

In general, the intention of every SCA is to grant state authorization to a certificate holder to construct and operate an energy project that has been determined to be in the state interest. Through the SCA, the state grants the certificate holder a "license" for the project; in return, the certificate holder commits itself to comply with the terms of the SCA.

The Council finds that updating the name of the certificate holder in the existing SCAs is consistent with this intent. The parties to each agreement remain the same, and the terms and conditions of each agreement remain the same. The amendments simply serve to ensure that the parties are designated correctly in each agreement.

D. Conclusion.

The Council concludes that the proposed amendments to update the name of the certificate holder in each of the named SCAs and to update the names of certain projects as relevant is consistent with public health, safety, and welfare; the applicable law; and the intent of the original SCA.

RESOLUTION

For the foregoing reasons, the Council adopts the following amendments and directs their implementation as follows:

1. In the Site Certification Agreement between the State of Washington and the Washington Public Power Supply System for Hanford No. 2,
 - a. References to “Washington Public Power Supply System” will be changed to “Energy Northwest” in all applicable locations, and
 - b. References to Hanford No. 2, Hanford Project No. 2, and WPPS Nuclear Project No. 2 will be changed to “WNP-2.”
2. In the Site Certification Agreement between the State of Washington and the Washington Public Power Supply System for WNP 1 and 4,
 - a. References to “Washington Public Power Supply System” will be changed to “Energy Northwest” in all applicable locations, and
 - b. References to WNP 1 and WNP 4 will be changed to WNP-1 and WNP-4 respectively.
3. In the Site Certification Agreement between the State of Washington and the Washington Public Power Supply System Satsop Combustion Turbine Project
 - a. References to “Washington Public Power Supply System” will be changed to “Energy Northwest” in all applicable locations.
4. All other references to “Washington Public Power Supply System” in the SCAs and appendices are in the context of obligations completed the Supply System as “Washington Public Power Supply System” or other documentation issued when the name of the certificate holder was WPPSS. For purposes of accuracy and traceability, these references will not be changed.
5. All references to “Washington Public Power Supply System” in related EFSEC resolutions, orders, permits, and letters of authorization, and in pending applications will be changed to “Energy Northwest” as applicable.

DATED and effective at Olympia, Washington, this _____ day of December 1999.

Deborah Ross, EFSEC Chair