

What is Article 10

Article 10 is part of the New York State Public Service Law enacted in 2011. Article 10 empowers

the NYS Board on Electric Generation Siting and Environment (Siting Board) to issue Certificates

of Environmental Compatibility and Public Need

authorizing the construction of major electric generation facilities.

“Siting” is the process consisting of the steps

conducted by the regulatory agency in

determining whether to allow a facility to be

located and operate on a site.

In the case of a wind-powered facility it

**includes wind turbines on towers,
electric collection line, access roads,
substations**

Meteorological towers and transmission lines.

There are five phases to the siting process

1. The Pre-Application

2. The Application

3. Administrative Hearings

4. Siting Board Decision

5. Compliance

**The pre-Application phase is where we are
now.**

**The applicant is required to prepare and
implement**

**a Public Involvement Program (PIP). The PIP
must**

**be submitted in writing to the Department
of**

Public Service at least 150 days before submitting

a Preliminary Scoping Statement (PSS).

APEX filed their PIP on October 30, 2014

APEX filed a revised PIP on Dec. 31, 2014

APEX filed another revised PIP on Jan. 15, 2015

How to monitor filings

- 1. Go to New York State Dept. of Public Service home page.**
- 2. On the left click on search.**
- 3. on next page on the top click on search.**
- 4. Scroll down to “Search by Case Number”.**
- 5. Enter case # 14-F-0485**

The site will have all of the filings, public comments and a party list. (Someone needs to monitor his site.)

Elements of the PIP:

- 1. Consultation with affected agencies & other stakeholders.**
- 2. Activities to encourage stakeholders to participate.**

- 3. Activities to educate the public on the specific proposal and the Article 10 process.**
- 4. Establish a website to disseminate information.**

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Preliminary Scoping Statement (PSS)

**PSS is a written document to inform the Siting Board, other public agencies and the public
That the applicant is contemplating making an
Article 10 application.**

It is prepared by the applicant after consulting

with the public, affected agencies, and other

**stakeholders. "Consultation" means providing
information to and getting effective input
from**

the public, agencies, and other stakeholders.

The PSS needs to be filed no less than 90

days before the application for Article 10 certification is filed. The earliest date APEX can file their PSS is April 30, 2015.

Filing of the PSS triggers the ad hoc process.

Information included in the PSS falls into two categories.

Category 1 contains a description of the proposed facility and its environmental setting. The information must include description of potential environmental & health impact resulting from construction and operation of the facility; measures proposed to minimize the environmental

impact; alternatives to the facility and identification

of all state & federal permits, certifications or

authorizations needed to construct and operate

the facility.

Category 2 is a description of the proposed studies

or program of studies designed to evaluate

potential environmental and health impact that

the applicant intends to include in the

application. The PSS must also include an

identification of any other material issues raised

by the public.

Within 21 days of the filing of the PSS any person may submit comments about the PSS.

2. The Application

Within 60 days of the receipt of the application

the Chairperson of the Siting Board determines

whether the document complies with the requirements of law, regulations and stipulations.

The DEC also advises the Siting Board within

the 60 day period that the document contains

sufficient information.

If approved the Siting Board Chairperson will fix

a date for public hearings.

3. The Hearings

The hearings will be conducted by a presiding

examiner designated by the Department of Public

Services and an assistant examiner designated by

the DEC.

Types of Hearings:

Public statement Hearings

Trial-type evidentiary hearings

The hearing examiner will hold a pre-hearing

conference to identify interveners, award intervener

funds, identify issues for the hearing, and establish

a case schedule.

Who are the parties to an Article 10 Proceedings

1. Automatic statutory parties.

2. Parties that have a right to be a party merely by giving notice. That can be any individual resident of an affected municipality providing they file with the Siting Board a notice of intent to be a party within 45 days after the date given in the published notice as the date for filing of the application.

4. Siting Board Decision

The Siting Board makes the final decision. It

must be made within 12 months from the date

of the determination by the Chairperson that the application is complete.

The decision is based on the impact of Construction & operation of the facility on

- 1. Ecology, air, ground and surface water, wildlife and habitat.**
- 2. public health and safety.**
- 3. cultural, historic & recreation resources including aesthetic and scenic value.**

**4. transportation, communication, utilities,
and other infrastructure.**

Note: The new law allows the Siting Board to disregard, in whole or in part, any local ordinance, law, resolution or other action or any regulation if it finds that, as applied to the proposed facility, such is unreasonably burdensome in view of existing technology or the needs of or costs to ratepayers. This includes zoning or planning restrictions enacted locally

The legislation provides that no State agency, municipality, or any agency thereof may, except as expressly authorized by the Siting Board, require any approval, consent, permit, certificate or other condition for the construction or operation of the proposed facility.