

*March 19, 2020*

*VIA ELECTRONIC MAIL*

*RE: Inaccurate Statements in ACE NY March 4, 2020, letter regarding Governor Cuomo's proposed Reform of Renewable Energy Siting*

Dear Governor Andrew Cuomo, Majority Leader Stewart-Cousins and Speaker Heastie:

A letter dated March 4, 2020, was sent to you by ACENY and environmental organizations in support of proposed Accelerated Renewable Energy Growth & Community Benefit Act (Part JJJ in the Executive Budget). Their letter stated inaccurate information about Article 10 and in support of the Act. Please review the following accurate information.

1. Projects that have been approved for funding by NYSERDA are not “ready to be sited and built” because they have not been approved by the Article 10 process. Separating the NYSERDA funding process from the Department of Public Service Article 10 siting process is important. They have different standards of review. A funded project is not shovel ready. The Article 10 process must be allowed to operate without the pressure of pre-funded status skewing the review.
2. Article 10 projects take about 3.5 years to gain approval. Given that these are massive sprawling projects with substantial environmental and community impacts this is a minimal amount of time, and in many instances too short a time frame. The fact that the projects have not been built indicates that developers, despite dramatic state subsidies, are not willing to meet the conditions listed by the siting board in its decision.
3. 46 large scale renewable energy projects were placed in the Article 10 process in 2017 or later. The majority of these are solar projects which have not yet had precedent in the Article 10 process. These projects are moving forward at a reasonable pace. These include:
  - 9 projects in 2020;
  - 18 projects in 2019;
  - 9 projects in 2018;
  - 10 projects in 2017.
4. Of the 8 projects that began the Article 10 process in 2016:
  - Four have been granted a permit.
  - Two of these projects did not move past the pre-application stage. It should be noted that such an instance should be interpreted as a positive development. The pre-application phase should enable developers to analyze whether the project is feasible and supported by the local community.
  - One is close to being decided by the siting board.

- One had a two year lag on the part of the developer from the time of the Preliminary Scoping Statement to the Application – a timing lag that is not part of the Article 10 process.

(To see the active Article 10 Queue, go to the following DPS site:

<http://www3.dps.ny.gov/W/PSCWeb.nsf/All/763B187DD5A792DE8525847400667D6B?OpenDocument>)

5. The ACE NY letter requests “standardized, streamlined yet robust” environmental analysis. This is an absurd request. Standardization and streamlining reduces the applicability of the review to the locality. It is the averaging of impacts. With towers now looming to over 650 feet and with blades close to the size of football fields the local towns should be able to make their specific case – even if it is before a board that is so skewed against them that their ad hoc “votes” mean little.
6. The ACE NY letter references the endangered and threatened species mitigation bank fund as prioritizing “avoidance and mitigation of impacts”. But this fund has nothing to do with avoidance, which is not able to be streamlined. The fund is for the purpose of paying to kill wildlife. And yet best practices, as stated by all birding organizations, include proper siting as the best method to avoid negative environmental impacts. There are certain locations that remain poor environmental choices. The fund is for the purpose of rapid siting, choosing financial mitigation over good siting practices.

The Article 10 process is working and is increasing in efficiency as it establishes precedent and increases staffing. Developers did not jump in with multiple projects in 2012. The early years of Article 10 were quiet so the claim that it takes ten years to site a project is false:

2012 – one project (only completed the first step of the Article 10 process)

2013 – one project (only completed the first two steps of the Article 10 process)

2014 – two projects (one received a certificate; one never submitted an application)

2015 – two projects (one received a certificate, one waited three years to file an application)

It is not perfect. As stated above, the five to two state/local weighting on the siting board means that the local ad hoc members will never have more than an incidental voice. This is a fundamental flaw in the process for projects that are so sprawling they change the very character of small towns.

Funding for municipalities and local groups is inadequate, and reimbursement is abysmal causing delay and prejudice against local parties. Inflexible schedules leave communities with few options. But it does at least provide communities with multiple opportunities to provide input early in the process. And in some instances, it means that poorly sited projects do not submit an application, saving agency time, taxpayer funding, and the cost of extensive litigation.

Amanda Lefton, First Assistant Secretary for Energy and the Environment, in November 2019, spoke at the Climate Solutions Summit at SUNY New Paltz. She discussed the positive aspects of Article 10:

.... It’s the review that we have in order to look at projects to be sure that they don’t have negative impacts or those impacts are mitigated and to really look at the whole scope of

the review process. **And the Article 10 process was intentionally really rigorous because we are talking about siting electric generation in communities and we need to ensure that we are really having adequate reviews so that our communities are engaged**, the process is aligned with our state policy goals, the process and having a rigorous review process I think is really critical.

However, there are efficiencies that need to be made, we need to be able to move these projects faster and fortunately we have been able to make a lot of progress through the agencies and they have been hard at work finding efficiencies....

I think where we have the biggest hang-up honestly with the siting process is, in addition to the improvements that we continue to make, we are actually seeing a lot of local opposition. And that's okay. Right? It's okay for people ...it's important for people to step up and participate but the fact is that we need to be able to find solutions to site renewable energy.

And what we see is a lot of people weighing in on both sides of the issues and it's really important that we evaluate that fully. But I think in order for us to make the process go better and faster we need more people to be involved in the process who are calling for renewable energy to be sited in their communities.

(To hear Amanda Lefton speaking at the above referenced event, go to the time stamp of 1:06:00 at this Facebook link:

<https://www.facebook.com/NYforCleanPower/videos/538667683551680/>)

We request that you acknowledge the experience of Article 10 over the past 8 years and remove the Governor's proposed Accelerated Renewable Energy Growth & Community Benefit Act (Part JJJ in the Executive Budget).

Sincerely,

Pamela Atwater, President

Kate Kremer, Vice President

Save Ontario Shores, Inc.