

Top Ten Industrial Renewables Corporation Wish List Result: Governor Cuomo gives them everything at the expense of New York rural communities

Developer Wish #1: Scrap and replace the existing process for approving large scale renewable projects in a “behind closed doors” manner with no legislative hearing, no public comment, no scrutiny.

Governor Cuomo agreed: A sweeping change in how renewable projects 10 MW and larger are sited is attached to the budget after all budget hearings were completed. Lawmakers cannot politically vote against the budget and so will likely pass the amendments. The result will be legislation that will negatively impact hundreds of towns, without public scrutiny.

Developer Wish #2: Instead of projects 25 MW or greater, apply this expedited process to projects 10 MW or greater. Enable developers who began their projects under the existing system to move to the new expedited process. Developers who lobbied for this new siting process want the ability to move their existing project proposals to this new system.

The governor has given developers the right to move projects that are currently in the existing Article 10 system into the new expedited process without regard to what stage of the process they are in. They will be given credit for the work they have done in the Article 10 process and so their project application will be expedited. And the new expedited siting process will apply to all projects 10 MW or greater, so developers do not need to negotiate with towns regarding these projects.

Developer Wish #3: No public or town board input during early stage of project development. Developers do not want to provide early access to information or receive input from town boards and local groups because the more people know about these projects the more they oppose them.

The governor agreed to remove the public involvement process, and the pre-application document that enabled localities and local groups to give input early on as to how a project should be developed and address possible local concerns.

Developer Wish #4: Strict and immovable timelines to site projects in a year with no review process. The existing 3.5 year rate of approval is too long for developers. Note: the timing under Article 10 is almost exclusively driven by when the developer provides each stage of documentation.

The governor agreed to two hard stop deadlines with no process for extension. First, after a developer submits an application the Office of Renewable Energy Siting (ORES) must respond within 60 days as to whether or not the application is complete, or it is to be accepted as complete. Second, once the application is complete the ORES office must decide permitting conditions within a year, or the draft proposal is automatically approved. Note: this new ORES office could take much less than a year to decide.

Developer Wish #5: Implement uniform siting standards and conditions and, if local circumstances do not fit the standards, they must be addressed so as not to slow or stop projects. The existing Article 10 siting process leaves open the door for changing standards as new evidence is provided by multiple parties in new cases. Developers do not want multiple-party evidence-based siting.

The governor agreed to allow the ORES office to establish uniform standards and conditions in consultation with state agencies and authorities and without local input or multiple party experts. There is no provision as to how to integrate changing science or technology of industrial wind turbine model in these standards and no review.

Impacts outside the standards will not slow or stop projects but will be “mitigated”, including financial payments.

Developer Wish #6: No Parties and No Mandated Hearing. Public Comments on the draft project proposal may be permitted. Developers do not want to have their experts cross-examined. They do not want citizens groups and towns to write extensive briefs as to why the developer’s study is incomplete or inaccurate, or that there are concerns not addressed. Developers do not want citizen groups to bring evidence and experts that contradict the developer’s evidence or experts. They do not want citizen groups and towns to bring evidence that the local harm far outweighs the minimal environmental benefit.

The governor agreed to remove the mandated hearing that is the focal point of the existing siting process. Only if the ORES office decides that a comment in the 60-day comment period “raises a substantive and significant issue that requires adjudication” will a hearing on an issue be held. Who would present evidence in this hearing so as to do justice to such an issue since there are no parties? The ORES office would rarely find that issues raised, even if “substantive and significant”, would “require adjudication;” most issues will be managed by the uniform standards.

Developer Wish #7: Stop intervenor funding to local citizens or citizens groups. Developers do not want to fund local groups to hire attorneys and provide experts, testimony, data that contradicts developer data, questions the adequacy of developer data and study methods. They do not want local groups with concerns about projects to participate as funded parties in the siting process. Town board intervenor funding is okay because the developer can usually get some board members to sign leases so they are easier to work with.

The governor agreed to discontinue intervenor funding for citizens or citizen groups. These citizen groups balanced town boards who almost always include lease signers. Such groups hired attorneys and experts to add to the official record in the application. Citizen groups encouraged public participation and comments to the application process. This new siting process supports minimal public participation and so has determined that active citizen participation is not important enough to be funded. (Ironically, one of the reasons Article 10 was originally established was to promote public participation).

Developer Wish #8: Do not apply town laws. Developers do not want to work with the town boards to change local laws to facilitate their projects. Even when some of the town board members have signed leases with the project it is sometimes hard to get enough support to change the law. Developers want laws incompatible with the project to be ignored.

The governor has given the new siting office the ability to decide whether any local laws will apply. There is no longer an assumption that local laws must be adhered to. There is no hearing to address this issue. There is no public comment period. There are no discussions with local officials. The new siting office has exclusive control.

Developer Wish #9: Establish standardized Payments in Lieu of Taxes (PILOTs). Do not permit towns to benefit from opting out of the automatic renewable energy generation tax exemptions (Real Property Tax Law Section 487). Some municipalities are demanding more money than developers are willing to pay. In some cases, they are “opting out” of the PILOT process and demanding full tax assessments. Developers do not want the uncertainty of individual municipal negotiations. They want reduction in tax payments to municipalities standardized.

The governor has given NYSERDA jurisdiction to consult with local officials regarding PILOTs. NYSERDA will establish the assessed valuation for projects and offer a discount rate for projects and this will provide leverage for lower PILOT payments. This action removes the negotiating advantage that municipalities

gained by opting out of the automatic tax exemption renewable projects have under the New York State Real Property Tax Law.

Developer Wish #10: Expedited process and funding for costly transmission expansion. Rural communities oppose transmission expansion just like they do large scale renewables. But renewable energy developers require transmission. Currently, new renewable projects upstate will offset existing renewables because the energy cannot get to high fossil fuel electrical generation areas downstate.

The governor agreed to a transmission study and then an expedited process of regulatory review including a list of projects that should be prioritized. Funds are directed to be used for this purpose. Note: Expedited processes always sacrifice local input and rapid renewable energy project approval prior to results of this study is inefficient and expensive.

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