



Save Ontario Shores, Inc.

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December 7, 2020

Houtan Moaveni  
Executive Deputy Director  
New York State Office of Renewable Energy Siting  
99 Washington Ave.  
Albany, New York 12231-0001

Subject: Comments on ORES Draft Regulations and Uniform Standards regarding COVID-19 impacts on the comment process

Dear Mr. Moaveni:

Please accept the following comments regarding the impacts of the COVID-19 pandemic on the comment process associated with the ORES Draft Regulations and Uniform Standards.

**Comments on ORES Draft Regulations and Uniform Standards comment process as impacted by COVID-19 Pandemic**

**A. Cancelled In-Person Hearings Should be Rescheduled**

The budget bill in April 2020 that established the new Office of Renewable Energy Siting (ORES), also mandated that ORES hold hearings in four areas around the state on the new Uniform Standards and Conditions section of the regulations. It appeared that this was an effort to make it possible for communities that would be impacted by the regulations to comment on the Uniform Standard and Conditions.

The hearings in upstate New York were converted to virtual events due to COVID-19. SOS requests that the in-person hearings that were cancelled be rescheduled. The very people who will be most impacted by the regulations are the ones least likely to take part in a virtual hearing due to non-existent high-speed internet and unreliable phone service. The people who the Law intended to include in the process have been excluded.

It is inexcusable that many New York residences do not have even one internet provider. This is true in many rural counties, particularly the poorer ones. These are the very counties often targeted for

large scale renewable projects. WBEN reporter, Mike Baggerman, quoted New York State Senator Rob Ortt as follows, "It's galling to me that I have thousands of constituents and there are tens of thousands of New Yorkers who live in their own homes who pay property taxes that do not have high-speed internet," Ortt said. "They have to go to McDonalds. They have to go to a public library. They have to go to a town hall so kids do their homework. Now, they can also go to a homeless shelter but they can't get it in their own home." In the same article Lynne Johnson, a legislator from Orleans County, stated that she heard from some constituents whose children cannot get access to internet and do their school work remotely.

<https://www.radio.com/wben/news/local/why-the-lack-of-broadband-internet-in-rural-areas-across-ny>

There are multiple large scale renewable projects proposed in Orleans County and yet many of these citizens would have found it difficult if not impossible to take part in these virtual hearings. Large tracts of Allegany and Cattaraugus counties are slated for 2021 or 2022 internet line construction because they do not now have service. <http://armstrongny.com/Home/Map> . These counties are the site of Alle-Catt, the largest industrial wind project in the state, that was recently approved under the Article 10 process. If these regional hearings were meant for anyone, they were meant for these citizens, and due to COVID-19, for these citizens, they were effectively cancelled.

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A letter was sent to Houtan Moaveni, ORES Executive Deputy Director, on November 16, 2020, from Save Ontario Shores requesting that the hearings be rescheduled for the above reasons. The response stated the statutory deadline along with the uncertain timing of COVID-19 as reasons that the hearings were not postponed. This decision, along with the statutory deadline, should be revisited in light of the population that is excluded and the impact of the pandemic on all aspects of State government.

SOS requests that the Uniform Standards and Conditions not be finalized until in person hearings are rescheduled and take place and rural citizen in person comments are considered.

**B. Due to the Impacts of COVID-19, the Deadline for Finalizing the Regulations and Uniform Standards and Conditions Should be Extended.**

In the same manner that the state has extended unemployment insurance, the tax filing deadline and the deadline for COVID-related residential and commercial evictions, it is reasonable that New York State extend the deadline for implementation of the renewable energy siting regulations.

Many State offices have been impacted by various stay at home orders and practices to keep employees safe. ORES is no exception. Hiring, setting up an office from the ground up, drafting regulations and having them reviewed by experts, State Agencies, the public and municipal officers are adversely affected by pandemic limitations.

The Accelerated Renewable Siting Act was passed during the start of a pandemic in April 2020. A deputy director was hired in June 2020. Regulations and Uniform Standards and Conditions were drafted and posted for comment on September 17, 2020. In person hearings were scheduled in November 2020 and then cancelled and replaced with virtual hearings that were not accessible to all rural residents. All of these actions took place during a time when county health departments, including many that had been very concerned about impacts of large scale renewables in their counties, were focused on attending to the pandemic crisis, and many affected by the ORES proposal were limiting contacts outside their homes.

Indications to the public are that ORES does not have sufficient staffing with expertise to manage a thorough review of the comments on the regulations.

- The draft regulations were not grounded in science, biology, engineering and best practices. In some places the draft was incomprehensible. The content of the draft

regulations indicate that they were not extensively reviewed by DEC or DPS staff. The draft regulations appear to be hastily drafted.

- The three month time period between hiring the Deputy Director and posting of the draft documents is short by any measure for detailed extensive new regulations that impact the lives of tens of thousands of people and hundreds of thousands of acres, and appear to be the State's chosen method to reach state greenhouse gas goals.
- Citizen emails to the Office were returned with form responses that were not responsive to the inquires, or the emails received no response.
- There is no indication that ORES has hired an Executive Director.
- Citizen FOIA requests for documents have not been returned in a timely fashion.
- The ORES website regarding the draft regulations is confusing, using "regulations" and "Uniform Standards and Conditions" interchangeably without clear explanation as to the similarities/distinctions.
- Despite today's technological expectations, and despite DPS's ability to do so, SOS is informed that the ORES Office will not post the public's comments on the regulations on its website but will instead require the public to request the comments through the lengthy Freedom of Information Law process. This indicates a lack of planning and staffing.

Rural New Yorkers will be seriously affected by the proposed regulations and Uniform Standards and Conditions. The unplanned, unprofessional and rushed nature of these regulations and standards show disrespect for rural communities. Article 10 project developers, even before the regulations are final, are making plans to shift to the ORES 94-c process. There are no indications that the Office is ready to manage the unreasonable deadlines and timelines set by the Accelerated Renewables Act and by these regulations.

Without a pandemic, the one year timeline for finalizing the regulations 900-1-14 was unrealistic. Maintaining the one year timeline in spite of the fact that the entirety of the year has been under the cloud of a pandemic, when other timelines for other aspects of State government were paused or granted an extension of time, will guarantee that mistakes are made and corners will be cut that will harm New York.

Thank you for your consideration of these comments.

Sincerely,

Pamela Atwater, President  
Kate Kremer, Vice President  
Save Ontario Shores, Inc.