

FACT SHEET

NEW YORK STATE'S PROCESS FOR CONSIDERING SITES FOR WIND FARMS



Article 10 Process

**Step 1:
Public Involvement Program**

Public Involvement Program must be submitted for review at least 150 days prior to the submittal of any preliminary scoping statement.

**Step 2:
Preliminary Scoping Statement**

Public Involvement Program and Preliminary Scoping Statement must be approved before developer can submit a formal application. The Preliminary Scoping Statement must be filed no less than 90 days before filing a formal application.

**Step 3:
Formal Application**

Siting Board has 60 days to assess if the formal application complies with the Article 10 law. Then public hearings can be scheduled.

**Step 4:
Siting Board Decision**

Siting Board conducts a formal hearing and must make a final decision to issue or deny a certificate within 12 months of when the developer's application was deemed complete.

Wind power is clean, renewable energy. In New York State, all power sources, including wind farms, that generate more than 25 megawatts (MW) are considered power plants. For example, a 25-MW wind farm can generate roughly the electric power needed for 8,000 average households.

Major electric generating facilities larger than 25 MW are sited according to New York State's Article 10 law. This comprehensive law provides precise guidance to the New York State Board on Electric Generation Siting and the Environment (Siting Board) about authorizing construction and operation of major electric generating facilities, including wind farms. The Article 10 law streamlines the application process for developers, while providing a rigorous process for local input and ensuring environmental and public health laws are followed.*

Developers apply to the Siting Board for a *Certificate of Environmental Compatibility and Public Need* that authorizes them to build and operate a wind farm. The Siting Board reviews applications and information from communities and other interested parties, and then issues or denies certificates.

A transparent and open process

The Siting Board consists of five permanent members (the heads of five state agencies. NYS PSC, NYSERDA, DEC, DOH and ESD) and two public members drawn from the community, who provide a local voice in the proceeding. Local officials submit a list of candidates, and two public members are selected from that list.

The public can participate in the decision-making process by offering support; voicing concerns; or asking questions about public health, safety, the environment, or other factors. This proactive process begins during the initial planning of the facility and continues throughout the siting review, construction, and operation.

Step 1: Public Involvement Program

Developers must implement public involvement programs in the respective communities at least 150 days before submitting their preliminary scoping statement and official applications to the Siting Board.

Developers should conduct public outreach before any agreements are made between the developer and interested parties. The program includes:

- Fostering the active, early, and continuing involvement of interested or affected persons.
- Providing for an open exchange of information and ideas between community members and the developer.
- Providing timely notice to community members of important events.
- Soliciting local expertise.
- Identifying circumstances that may not have been known or anticipated by the developer or government agencies.

* The Siting Board must determine that the wind farm will comply with all state and local laws regarding the environment, public health and safety. The Siting Board may decide not to apply local laws that are deemed unreasonably burdensome or costly to ratepayers. Local laws are generally presumed to be valid and should only be found unreasonably burdensome after fully considering evidence submitted by the municipality.

Specific ways that developers can interact with communities may include:

- Communicating with community members early in the public involvement part of the process by various means such as media coverage, direct mailings, fliers, or newsletters.
- Holding public meetings and giving presentations to individual groups and organizations.
- Establishing a presence in the community such as a local office, a toll-free telephone number, website, or a community advisory group.

Step 2: Preliminary Scoping Statement

The preliminary scoping statement is a written document informing the Siting Board, other public agencies, and the community about the project, including a description of the proposed facility, potential environmental and health impacts, proposed studies to evaluate those impacts, proposed mitigation measures and reasonable alternatives to the project.

Both the public involvement program and preliminary scoping statement will be reviewed by Department of Public Service staff, who may offer recommendations for revisions and additional information to improve the documents. The developer may consider these recommendations in revising and resubmitting the public involvement program and the preliminary scoping statement. Once the preliminary scoping statement is filed, the developer must submit a fee to be used for intervenor funding during the pre-application phase. These funds may be used by local governments and other stakeholders to hire experts to review and propose revisions to the preliminary scoping statement. The two local members of the Siting Board are appointed at this time, and the Administrative Law Judge assigned to the case will convene a public meeting.

Step 3: Formal Application

After the public involvement program and preliminary scoping statement are filed, developers must then submit a formal Article 10 application to the Siting Board, which includes the same information as the preliminary scoping statement

but in greater detail. The Siting Board has 60 days after the application is submitted to determine whether it complies with the requirements of the law, regulations, and stipulations.

If the application does not comply with the requirements, the Siting Board will issue a letter to the developer advising of the deficiencies that must be corrected before the application will be considered complete.

If the application is complete, the Siting Board will set the date for the commencement of its public hearings and the Department of Environmental Conservation will initiate its review pursuant to federally delegated or approved environmental permitting authority for air and water permits.

Intervenor Fees. To encourage community and stakeholder participation, developers who apply are assessed an intervenor fee equal to \$1,000 for each 1 MW of generating capacity of the subject facility, but no more than \$400,000. For example, for a 100-MW facility, the intervenor fee for the application would be \$100,000. These fees are in addition to fees paid during the preliminary scoping statement phase.

Municipal and local governments and other parties to the proceeding are eligible to apply to receive intervenor funds. These funds can be used to defray expenses incurred by municipal and local parties for expenses such as expert witnesses, consultants, administrative costs (document preparation and duplication costs), and legal fees.

Hearings. The application review process will include both public statement hearings and trial-type hearings to give community members and stakeholders opportunities to fully participate.

Step 4: Siting Board Decision

The Siting Board must make its final decision about whether to issue or deny the certificate within 12 months of the date that a developer's application is deemed complete. In extraordinary circumstances, the Siting Board may extend the deadline by no more than six months to consider specific issues. In order to approve the certificate, the Siting Board must make a finding that the requirements of Article 10 have been fully met.

For more information

Read the details of Article 10: www.dps.ny.gov/article10law

Contact James Denn, Public Information Coordinator, Department of Public Service

Email: james.denn@dps.ny.gov

Phone: 518.474.7080



**Department
of Public Service**

NYSERDA