

WIND ENERGY SITING REFORM LEGISLATION

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BACKGROUND

- Massachusetts has nation-leading policies to encourage renewable energy
- Examples:
 - Renewable Energy Portfolio Standards (15% by 2020)
 - Solar REC Pending
 - Net Metering
 - Regulations Issued, Model Tariff Approved, Effective End of Year
 - Long Term Contracts
 - RFP Filed with DPU
 - Issued later this fall, contracts awarded
 - \$25 m/yr Renewable Energy Trust Fund
 - Com Solar—600 solar projects awarded, 40% operational
 - Funding for numerous wind projects, e.g. Deer Island, Jiminy Peak, Mass. Maritime
 - Cape Wind
 - Ocean Plan and Expected RFP Process

BACKGROUND

- Governor Patrick: 2000 mw wind by 2020
- Currently, we have about 7 MW
- Green Communities Act of 2008: Established Siting Commission:
 - Do Current Laws Adequately Facilitate the Siting of Renewable Energy Facilities?
 - Do Current Laws Make it Easier to Site Fossil-Fueled Facilities Than Renewables?

SITING STUDY

- Created an advisory commission of industry, environmental agencies, utilities, municipalities, environmental groups, legislators
- Engaged a national consulting firm to investigate siting in Massachusetts
- The firm interviewed power plant developers, reviewed permitting history of 6 wind projects in Massachusetts, and analyzed other states' siting laws

Conclusions

- Wind energy projects need clear and predictable siting standards
- Mass. requires many permits issued by many entities with many opportunities for appeal
- Mass. has one-stop permitting, but only for facilities larger than 100 mw. This discriminates against renewable facilities
- Other states have much lower thresholds, e.g., VT (0); CT (1), NH (5) Maine (20 Acres)

Examples

- Hoosac Wind: 30 mw project supported by towns, but delayed in permitting 8 years and counting. Wetland appeal pending for over 4 years
- Princeton Wind: 3 MW municipal project, delayed by zoning appeal for over 3 years. Private partner pulled out due to delay
- Berkshire Wind, 10 years of permitting due to changes in zoning bylaws, abutter lawsuits; project held up mid-construction

Solution: Wind Energy Reform Siting Act

- Advisory commission developed legislation to establish clear standards, one-stop permitting at local level and one-stop permitting at state level
- Applies to wind project and ancillary facilities 2 mw or larger
- Energy Facilities Siting Board to develop statewide wind siting standards within 9 months, taking into account noise impacts on residents, safety setbacks, environmentally sensitive areas, rare species

SITING REFORM ACT

- Standards need to be as protective as, but not necessarily identical to, existing law
- Standards protect interests not currently protected under existing law, e.g., large blocks of wilderness, non-rare bird species

SITING REFORM ACT

- High wind communities create “wind energy permitting boards,” composed of members of planning board, conservation commission, and zoning board of appeals
- One-stop board applies all local bylaws, and can waive provisions
- Decision within defined timelines
- Constructive approval if timeline not met, like existing zoning and subdivision laws

SITING REFORM ACT

- Major change to bill: if municipality denies or imposes conditions the developer does not like, the appeal is to court, not the siting board
- Note: this was the approach put forth by the Mass. Municipal Association
- If the municipality approves, appeal by opponent is to State Energy Facilities Siting Board
- State board hears appeals *and simultaneously* issues one-stop permit for all state permits
- State, local and regional permitting agencies provide comments and/or evidence; their recommendations are to be incorporated to maximum extent practicable

SITING REFORM ACT

- If the project complies with siting standards, Board must approve, but can issue conditions
- Approval within 5-8 months if complies with siting standards
- If facility does not meet all the standards, Board can approve, but it is not as of right
- Approval within approximately 12 months

SITING REFORM ACT

- Approval is a composite permit of all state permits needed
- Major change in bill: Siting Board has no authority to rewrite or override decision of municipality. Can only add conditions to make the permit stricter
- Single Appeal to the Supreme Judicial Court

SITING REFORM ACT

- Financial benefits to municipalities:
 - Green Community partial qualification
 - Application fee authority
 - “Impact” fee authority
 - Municipal member on siting board

SITING REFORM ACT

- Predicted result:
- Wind facilities sited in appropriate locations with appropriate safeguards and mitigation
- Permitting timeline reduced from 5+ years to between 1-1.5 years
- Appeals reduced from 5+ years to 1 year

Supporters

- 6 statewide environmental groups (Conservation Law Foundation, Mass Audubon, Nature Conservancy, Appalachian Mountain Club, Union of Concerned Scientists, Environmental League of Massachusetts)
- Cape Light Compact
- New England Clean Energy Council