

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)
 - Net Metering
 - Long Term Contracts
 - \$25 m/yr Renewable Energy Trust Fund
- Governor Patrick: 2000 mw wind by 2020

BACKGROUND

- 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
- 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 developers want clear and predictable siting standards
- Mass. requires too many permits issued by too many entities with too 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

Solution: Wind Energy Reform Siting Act

- Advisory commission developed legislation to establish clear standards, one-stop permitting at local level, appeal to state board, 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 6 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 are *permissive*: meeting them entitles developer to as of right and fast-tracked decision, but compliance is not required if developer can show compliance to maximum extent practicable, full mitigation, and benefits outweigh detriments

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 4 months (if complies with siting standards) or 6 months (if does not comply)
- Constructive approval if timeline not met

SITING REFORM ACT

- Appeal by any aggrieved person is to State Energy Facilities Siting Board
- State board hears appeals *and simultaneously* issues one-stop permit for all state permits
- State permitting agencies provide comments and/or evidence; their recommendations are to be incorporated to maximum extent practicable
- Board holds “public” hearing, or evidentiary hearing if facts are in dispute

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 and local permits needed, with 3 exceptions:
 - If municipality approves, permit is intact
 - If municipality denies, denial intact if facility does not meet the siting standards
 - If a regional planning authority issues or denies permit, rpa decision intact if rpa has siting standards in place approved by the commonwealth
- 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

OFFSHORE WIND

- Governed by Oceans Act 2008
- Allows renewable energy facilities of “appropriate scale” that are consistent with an ocean plan
- Ocean Plan to be issued in draft form July 1, final form January 1
- Robust planning/stakeholder effort

OFFSHORE WIND

- Expected Result:
- Locations for commercial scale offshore wind, based on wind speeds, water depth, lack of conflict with fisheries, habitat, sensitive areas
- Locations for smaller municipal projects
- Regulatory revisions to streamline commercial projects based on “up-front” planning