



Board on Electric Generation Siting and the Environment

Article 10 of the Public Service Law

Process Overview - Siting of Major Electric Generating Facilities

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Overview

Public Service Law Article 10 provides a unified siting review and approval process for major electric generating facilities in New York State:

- With a proposed capacity of 25 MW or more.
- Modifications to existing generating facilities repowered to add 25 MW of capacity or more.
- Includes renewable energy projects, such as wind or solar powered electric generating facilities.
- Does not apply to hydro-electric facilities.



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Board on Electric Generation Siting and the Environment

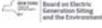
- The Siting Board is the decision maker in Article 10 process.
- The “Permanent” Board includes NYS Agency heads:
 - the Chair of the Public Service Commission
 - Commissioner of Empire State Development
 - Commissioner of Environmental Conservation
 - Commissioner of Health
 - Chair of NYSERDA
- An individual project Siting Board also includes two appointed residents of a project area.
- The Siting Board can issue a Certificate of Environmental Compatibility and Public Need for a generating project.



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Article 10:

- Includes environmental justice, environmental, public health and safety considerations.
- Ensures that public involvement opportunities occur throughout the planning & review process.
- Makes funds available to local parties and municipalities so they can make an effective contribution to the proceedings.



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Article 10 Process



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Article 10 Process

There are five phases of the Article 10 process:

1. Pre-application
2. Application
3. Administrative Hearings
4. Siting Board Decision
5. Compliance



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**1. Pre-Application Phase:
A. Public Involvement Program**

- Applicants file a Public Involvement Program (PIP) Plan summarizing activities it will use to educate, inform and involve the public in the planning process.
- Department of Public Service (DPS) staff review draft PIP Plan to determine its adequacy.
- Applicant responds and files a revised PIP Plan, and
- Starts outreach process and stakeholder engagement.



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**Pre-Application Phase:
B. Preliminary Scoping Statement**

After 150 day outreach period, the Applicant files a **Preliminary Scoping Statement (PSS)** describing:

- Proposed facility and its environmental setting
- Potential significant and adverse impacts
- Proposed studies to evaluate potential impacts
- Measures to avoid or mitigate adverse impacts
- Reasonable alternatives
- List of Local, State and Federal requirements
- Other required information



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**Pre-Application Phase (cont.):
C. Intervenor Fund**

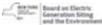
- The applicant submits an initial intervenor fee with the PSS.
- The fee is \$350 per MW of generating capacity, up to \$200,000.
- **Notice on the availability of funds** published.
- Minimum 50% of funds are for municipal parties, and up to 50% for local parties.
- Funds are made available to hire expert witnesses, consultants or lawyers, to assist intervenor groups in efforts that will contribute to a complete record.



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Pre-Application Phase (cont.):
D. Consultation

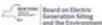
- After first award of intervenor funds, the consultation process starts: parties discuss methodology and studies that should be performed to develop an application.
- Parties attempt to reach agreements (“stipulations”) on the scope and methodology of studies. Hearing examiners may be asked to mediate disagreements.



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2. Application Phase
Notice and Filing

- Notice of filing an Application provided:
 - published in local newspapers.
 - to state legislators in affected districts.
 - to individuals per previous request.
- The Application:
 - Filed with the Siting Board, municipalities & parties.
 - Posted on-line, and made available for public inspection at libraries in the project vicinity.

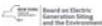


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Application Phase (cont.)

The **Article 10 Application** must include the following:

- Project description
- Details of up to 40 required Exhibits
- Evaluation of expected environmental and health impacts, environmental justice issues, and any reasonable and available alternative locations
- Application phase **intervenor fund fee**.



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Application Phase (cont.)
Intervenor Fund

- Application phase intervenor funding fee:
 - \$1,000 per MW of capacity, up to \$400,000.
- Funds are available to hire expert witnesses, consultants or lawyers, to assist intervenor groups in efforts that will contribute to a complete record.
- Funds are administered by Hearing Examiners.
- Reports on use of funds are required.



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3. Administrative Hearing Phase

- Within 60 days of receiving the application, the Siting Board Chair determines if it complies with regulations and final scoping stipulations.
- **Public hearing** is scheduled if application complies.
- **Pre-hearing conference** to:
 - Award intervenor funds,
 - Identify issues for hearing,
 - and establish a case schedule.
- Discovery, evidentiary hearings and briefing process.



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4. Siting Board Decision Phase: Findings

The Siting Board must make decisions & findings:

- **Environmental Impacts (including public health and safety) are minimized or avoided;**
- **Electric system benefits and consistency with energy plans & policies**
- **Compatibility with State and local laws and other requirements.**
- **One year time limit** from complete application to decision.



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5. Compliance Phase

There are three elements of post-certification compliance:

1. **Pre-construction** – filing, review and approval of engineering plans, final design documents, permits or other approvals.
2. **DPS On-site Compliance** – Inspections during construction.
3. **Long-Term Compliance** – Appropriate operation over facility lifetime.
4. **Decommissioning** - restoration at end of facility lifespan.



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Active Article 10 Projects

- 5 Applications filed
- 12 projects have PSS documents filed
- 12 projects in outreach phase - PIP Plans
- Total 5320 MW Proposed
 - 3345 MW Wind energy
 - 1005 MW Solar energy
 - 970 MW gas, 80 MW waste-to-energy



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Opportunities and Challenges



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Article 10 Process

1. Pre-application
2. Application
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Article 10 Public Participation Summary

- **Public participation and input process is required:**
 - Public Involvement Program plan – attend local info meetings
 - Scoping – comment on proposed studies and stipulations
 - Public statement hearings – comment on application
 - Party status - with applicant-sponsored funds available



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Article 10 Public Participation Summary

- **Municipality involvement** - includes Towns, Villages & Counties
 - **Host municipalities nominate ad hoc Siting Board members**
 - **Municipalities are parties upon filing of notice of intent**
 - Municipality seeking to enforce local laws must participate or is barred from enforcement authority.
- **Funds for Party experts & legal representation**
 - Scoping phase: \$350/MW up to \$200,000 (50% for municipal parties)
 - Application phase: \$1000/MW up to \$400,00 (50% for municipal parties)
 - Additional funds: fuel waste storage & application amendments



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Article 10: How You Can Get Involved

- Attend public meetings provided by the applicant.
- Participate in Siting Board public meetings and hearings.
- Provide comments on a case
 - Write to the Secretary of the Siting Board:
 - Hon. Kathleen Burgess
 - NYS Siting Board
 - 3 Empire State Plaza, Albany NY 12223-1350
 - Email Secretary of the Siting Board: secretary@dps.ny.gov
 - Call toll-free Opinion Line: (800) 355-2120 to leave a comment



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Article 10: How You Can Get Involved

Other ways to participate in Article 10:

- Become a party in the case
- Subscribe to the case Service List
- Monitor the case on the Siting Board's Website
- Register with the PSC's Document and Matter Management (DMM) System –
 - http://www.dps.ny.gov/DMM_Registration.html



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www.DPS.ny.gov



