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New York's New Renewable Siting Law Puts Premium on Communication *A PowerCom synopsis of 94-c for renewable energy developers*

New York State has enacted a new law, dubbed “94-C” (Accelerated Renewable Energy Growth and Community Benefit Act), designed to speed up the approval of large-scale renewable energy projects. It is intended to help the state achieve a minimum of 70% statewide electricity consumption comes from renewable sources by 2030 and an emission-free grid by 2040 – standards established by the Climate Leadership and Community Protection Act adopted last year.

The accelerated track for project review and approval -- a new 12-month timeframe -- puts a premium on cogent communications and effective community outreach by project developers.

Like the old Article 10 siting process, the new process includes local intervenor funding for host communities. It also establishes a host community benefits program as part of a “build-ready” site development plan. In addition, the new law does not require municipalities and industrial development agencies to consult with the state in setting payment in lieu of taxes (PILOT) amounts, and host community agreements will continue to be negotiated between the local municipality and the developer.

With continued community involvement and a compressed timeframe, it will be more essential than ever for developers to communicate early and often with local interests.

At Power Communications, we have always emphasized the importance of public outreach and transparency in project development. We're ready to help developers meet the new challenges of the Accelerated Renewable Energy Growth & Community Benefit Act.

Here's a summary of the new law's provisions.

The Accelerated Renewable Energy Growth & Community Benefit Act (94-c)

Provisions of New York's 2020 budget legislation contained the most significant overhaul of large-scale renewable energy project permitting since the enactment of Public Service Law Article 10.

The new law, Section 94-c, will create and oversee a new 12-month review and approval process for large-scale renewable energy projects. This includes renewable energy projects larger than 25 megawatts. (Projects between 20 and 25 megawatts may opt into the new process. Projects under 20 megawatts will continue to be permitted under the State Environmental Quality Review Act (SEQRA) and local zoning requirements.

The law creates a new Office of Renewable Energy Siting (ORES) charged with consolidating the environmental review of major renewable energy facilities and providing a single forum for ensuring that siting decisions are predictable, responsible and delivered in a timely manner while delivering significant benefits and input opportunities to local communities. ORES is authorized to override local laws if they are “unreasonably burdensome” and interfere with the state meeting clean energy targets. If ORES fails to meet the 12-month deadline, a permit will automatically be issued.

The new law also amends Article 7 of the Public Service Law to create an expedited permitting process for major electric transmission facilities requiring the Department of Public Service to perform a broad-ranging power grid study in furtherance of the CLCPA's goals.



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Office of Renewable Energy Siting (ORES)

Among its responsibilities, ORES will:

- Establish regulations and uniform standards, within one year, and identify mitigation measures to address any impacts after seeking public input. (Until ORES establishes the new standards, a project application under Section 94-c will be required to conform substantially to the form of an Article 10 application.)
- Develop draft permits for public comment and local community input and ensure that complete applications are acted upon within one year, except in the case of certain former commercial and industrial sites, which will be reviewed within six months. Projects must still comply with local regulations unless ORES determines that the regulations are unreasonably burdensome.
- Approve all new construction or expansion over 25 MW. Projects already in the initial phases of the Article 10 siting process will be allowed either to stick to this standard or opt into the new siting procedures.

94-c establishes that no other state agency, department, authority, or municipality may require any approval or condition on a major renewable energy project, provided that a municipality has been given notice.

Clean Energy Resources Development and Incentives Program

The new law creates a Clean Energy Resources Development and Incentives Program that will be administered by NYSERDA, which will:

- Work with its state partners and local communities to rapidly advance new "Build-Ready" projects, prioritizing the development of existing or abandoned commercial sites, brownfields, landfills, former industrial sites, and abandoned or underutilized sites.
- Competitively auction the developed sites, bundled with contracts for renewable energy payments, to provide a fully de-risked package for private developers to construct and operate projects at these sites.

Host Communities Benefits

The new law requires:

- A Host Community Benefits Program as part of its build-ready initiative, which will offer property owners and communities tangible benefits and incentives for hosting renewable energy facilities. Benefits that provide utility bill discounts, other environmental benefits, or compensation for the benefit of residents of host communities.
- A Local intervenor fund for the benefit of local agencies and community intervenors in order to participate in the new siting process.
- Municipalities who receive notice of a Section 94-c application shall submit a statement to ORES indicating whether the project complies with local law. If public comments, including comments from a municipality, raise a "substantive and significant issue," ORES can proceed to an adjudicatory hearing to hear arguments and consider the evidence. If ORES decides not to hold an adjudicatory hearing, then the Department of State must hold a public statement hearing in the affected municipality.

Grid Planning and Energy Delivery Constraint Relief (Transmission)

The new law also contains provisions to accelerate the investment in and development of a reliable, state-of-the-art grid by:

- Prioritizing the planning, investment and development of grid infrastructure.



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- Developing a bulk transmission investment program, for the projects identified in a comprehensive study, that not only accelerates development through existing planning and development processes but also relies upon and fully leverages the New York Power Authority's unique capability to expeditiously construct new transmission, by itself or in partnership with others.
- Directing the Public Service Commission to establish a distribution and local transmission system capital program, with associated milestones and reviews, for each utility in need of local upgrades in their service territory.
- Applying a streamlined siting process of no more than nine months from complete application for transmission infrastructure built within existing rights-of-way.

Overview Summary

As the proposal to enact this new process was being debated by the state legislature, local governments raised serious objections to new, stronger state authority in the project review and approval process.

Consequently, there will continue to be an expectation of collaboration between project developers and local interests. Companies and their projects will benefit greatly with the state and the localities by providing consistent communications, information sharing, and attention to the needs articulated by local interests. ORES is expected to remain respectful of New York's home rule traditions.

The new law will certainly create great new opportunities for renewable energy development in the Empire State, creating much-needed jobs that will help jump-start our post-pandemic economy and protect our environment for future generations.

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