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Houtan Moaveni, Deputy Director
Office of Renewable Energy Siting
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Dear Mr. Moaveni,

We write in regard to the forthcoming uniform standards and conditions for major renewable energy facilities in New York State. As members of the Federation of Monroe County Environmentalists, a grassroots group of citizens in the Western/Finger Lakes region of New York, many of us have decades of experience collaborating on a diverse array of environmental issues. We want to voice our hopes and concerns for the forthcoming standards.

We recognize the utmost importance of mitigating climate change and developing a more sustainable energy system in New York State. In this regard, we acknowledge the hope that the new standards will help accelerate the creation of a sustainable, socially just energy system that has a lighter impact on the climate and on the environment as a whole. We, too, hope that such an energy system can come about. Additionally, we acknowledge the efforts of the Office of Renewable Energy Siting and the other state agencies who are working on the new standards, knowing that there are many considerations to take into account.

We emphasize the importance of developing standards that address impacts to the climate, environment, and society as a whole but also to each individual locality. The Climate Leadership and Community Protection Act (CLCPA) was conceived to reduce greenhouse gas emissions as well as protect New Yorkers and our natural environment from the negative impacts of climate change. It is also important to recognize that different natural systems can also mitigate impacts of climate change (such as forests sequestering carbon and wetlands absorbing floodwaters). Therefore, the forthcoming standards must work towards

not just electrical generating capacity, but towards the ultimate goal of reducing the negative impacts of climate change -- without reducing the work of these natural systems, and without creating additional negative impacts. Taking the time to develop good standards now will save time and money in the future (whether in litigation costs, project delays, or mitigation of project effects) and will move us more quickly towards a socially just, environmentally sustainable, zero-emissions economy. As a comparison, the SEQR for fracking took seven years. (We are not suggesting that the current process take that long but that care in the development of standards and conditions is crucial to moving towards our goals.) Addressing the impacts of climate change more holistically is also in line with our priorities as an organization, which are land use, water and Great Lakes, climate change, energy, and parks.

In light of these statements, we feel that the standards must address all of the environmental and social impacts outlined in the Article 10 Application Requirements. For each of these areas, subject experts should be consulted and their recommendations followed closely. Please see the document below, which details areas of particular concern, including:

1. Public involvement
2. Land use
3. Consistency with energy planning objectives
4. Noise and Vibration
5. Cultural Resources
6. Terrestrial Ecology and Wetlands
7. Water Resources and Aquatic Ecology
8. Visual Impacts
9. Socio-Economic Impacts
10. Alternatives to Renewable Energy Projects

We welcome an opportunity to meet with you to answer any questions, provide assistance, or further discuss the recommendations outlined below.

We can be contacted via our organization's:

Email address (fmce.org@gmail.com)
Website (https://www.fmce.org/contact-us.html)
Postal mail (348 Ripplewood Drive, Rochester NY 14616)

Thank you again for the important work you are doing.

Please see the Recommendations for the NYS Office of Renewable Energy Siting Standards and Conditions following the signatory list. We look forward to hearing from you.

Sincerely,

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Enclosure: **Recommendations for the NYS Office of Renewable Energy Siting Standards and Conditions**

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Recommendations for the NYS Office of Renewable Energy Siting Standards and Conditions

Public Involvement in Application Consideration

The strong public involvement in many Article 10 siting processes is a testament to the importance of project impacts to local communities. In addition to early, impactful, and sustained public involvement in developing the standards, we feel that a standard should exist that mandates public involvement, including the following:

- Require the developer to meet with elected officials, municipal governments, and community groups that are especially concerned about the project, and incorporate responses to their concerns into the project application.
- Require the developer to spend a minimum of two days in informal gathering places near the project site to listen to citizens' input. This should occur early on -- but after publicizing detailed project maps and project description -- and the developer should address citizens' hopes and concerns within the project. A guide to this process can be found here: http://www.jkagroup.com/methods/discovery.htm
- Require the developer to be very visible to the community and easily accessible and responsive.
- Require the developer to publicize a detailed description of the project and update community members accordingly.
- Require a public written record of process and project, maintaining all public access before, during and AFTER build.

The Accelerated Renewable Energy Growth and Community Benefit Act (the Act) does not include public involvement prior to the application so we request that a standard for early engagement be established and becomes part of the application. The goal of this engagement could be to ensure that the stakeholders have been heard and are knowledgeable and prepared to comment during the 60 day public comment window. All of this should happen before the project is approved. Additionally, the public should be promptly updated as to how a project scored in meeting these standards, and be given ample time to comment, before a project is approved.

Land Use

Project location is one of the most important determinants of environmental and social impacts of a project. Land use standards should put high priority on protecting the following areas, with setbacks that reduce or eliminate impacts and are based on independent scientific studies:

- Large areas of healthy and special ecosystems
- Forests (which are already sequestering both carbon and flood waters), especially mature forests and woodlands
- Water resources (aquifers, lakes, streams, and wetlands)
- Prime agricultural land – the state may want to use USDA soil surveys (https://www.nrcs.usda.gov/wps/portal/nrcs/surveylist/soils/survey/state/?stateId=NY) to help identify prime agricultural land. Additionally, the likelihood and potential risks of expecting solar projects to return to productive farmland must be adequately studied and determined.
- Agricultural buffer zones (Wildlife flourishes in these areas.)
- Public parkland – parkland should be protected from the electrical, visual and noise impacts of power generating.
- Nature preserves
- Wildlife corridors
- Migration flyways and ridge lines
- Breeding grounds
- Human communities, especially environmental justice communities or communities that are already disadvantaged in some way. All communities should be protected for safety as well as quality of life, which can be found in the sustainable land use and comprehensive plans of their respective communities.

Additionally, we recommend that the standards encourage siting on the following land types if not located near residences, depending on the safety impacts, environmental impacts, social impacts, and generating capacity:

- Brownfields
- Industrial or commercial locations, especially properties with large roof areas
- Locations with low transmission distances to the end users
- Covered-over landfills that are determined nontoxic and stable.
- Highway corridors
- Parking lots
- Fallow farmland in poor soils

To achieve this, we recommend that the state:

- Encourage towns to designate where they want to encourage renewables development based on local needs and plans.
- Conduct studies to identify sites that are environmentally suitable for project development, based on the recommendations of environmental experts.
- Conduct studies that explore the efficacy, efficiency and reliability of mega kilowatt projects vs. dispersed power production in available noncontinuous sites.
- Identify sensitive and important ecosystems and sites, and exclude these sites from consideration from project siting. In addition to protecting communities and ecosystems, we hope that this approach will save time and resources for project developers and the state in the long run.
- Establish a scoring system that accounts for the burdens and benefits of hosting a project (or multiple projects) in a particular site. This scoring system should account for environmental, social, and economic impacts, the project generating capacity, and the proximity to the actual usage. Land use should be a major factor.
- Establish adequate setbacks for protected areas, in addition to avoiding project construction on those protected areas.

Consistency with Energy Planning Objectives

The Climate Leadership and Community Protection Act outlines the importance of reducing greenhouse gas emissions to mitigate climate change, and outlines targets for doing so. In line with this objective, we strongly request the following measures:

- Projects should result in a net decrease of greenhouse gas emissions, from project construction through project re- or decommissioning, compared to emissions if the project had not occurred. This calculation should use the state's projected energy mix, as well as local sustainability plans, as a basis for estimates.
- The net energy available to end users and municipal project sponsors as a result of the project must be significantly greater than the amount of energy used throughout the life cycle of the project.
- A significant portion of the energy produced by the project should replace fossil fuels. This must take into account (a) To what extent the energy produced by the project will actually replace fossil fuels, vs. to what extent it will be additional energy added to the grid and (b) Which types of energy production the project will replace (e.g. hydro, natural gas, nuclear, other renewables), given the projected energy mix on the grid in a given geographic area, including the implementation footprint.
- A standard should be developed that requires the developer to document the calculation of these items and present them in a manner that the public can understand in the application.

Additionally, calculations on greenhouse gas emissions and energy savings should take into account:

- The entire life cycle of the project, including site alterations in preparation for the projects (e.g. removing trees), extraction of products to build the renewable energy projects, site maintenance, construction of the project and transmission corridors, transmission of generated electricity, decommissioning, and any other necessary steps.
- A realistic estimate of generating capacity, subtracting energy that is likely to be (a) not generated during safety shutdowns (for wildlife migrations, storms, etc.) , (b) lost in the transmission distance to the large population centers, (c) used to build, maintain, and decommission the project and accompanying features over the life cycle of the project, and (d) any other energy used or lost.
- The transmission capacity for the energy produced by the project.

To do otherwise would be against the goals of mitigating climate change and creating a more sustainable energy system.

Noise and Vibration

Noise pollution is a significant and growing environmental concern. Industrial wind turbines produce sound and infrasound that can lead to sleep loss, health impacts, nuisances, and other impacts for people in their vicinity. Conservative standards can minimize these impacts and reduce citizen complaints and lawsuits. We therefore recommend the following:

- Noise standards should utilize published acoustic standards, not industry/developer standards.
- Noise standards should use the WHO 2018 Environmental Noise Guidelines and standards as stated by the March 16, 2020 letter to NYS PSC Secretary Michelle Phillips by NYS Department of Health Senior Attorney William Sacks in the Alle Catt case. (Note that Article 10 case decisions did not have the most currently available studies and information regarding sound levels, and therefore must not determine the standards. Studies are emerging annually, and a number of the Article 10 projects were approved prior to the WHO 2018 Guidelines.) See https://www.euro.who.int/en/health-topics/environment-and-health/noise/publications/2018/environmental-noise-guidelines-for-the-european-region-2018 for more information.
- Noise standards should be set for state, federal and local parks, wilderness areas and other natural areas, and they should be evaluated by sensitive receptors at their boundaries.

- Noise standards must include limits for individual sound events as well as average sound levels. Averages can mask individual high sound events. People are disturbed and awoken by loud sounds, not by average sound levels.
- Noise standards should be compatible with the DEC document "Assessing and Mitigating Noise Impacts." (See https://www.dec.ny.gov/regulations/2374.html.) In particular, sound pressure level increases must be limited to 6 dB, as set forth in DEC guidance.

New York State does not have large tracts of land without residential uses. This does not mean that we can sacrifice protective sound and infrasound standards so as to "fit" the industrial wind projects into regions where they will cause disruption, annoyance and give rise to local opposition. Given the limited locations for this type of renewable generation to be appropriately sited, it may be advantageous to preselect areas suitable to this type of development.

Cultural Resources

Standards should mandate that important cultural resources be preserved. Special consideration should be given to cultural resources identified by the community, including indigenous communities and disadvantaged communities.

Alternatives to Renewable Energy Projects

The goal of the CLCPA is to create an energy system that mitigates the negative effects of climate change. While building renewable energy capacity is one potential way to do this, other alternatives, including new technologies and reduction of power usage through conservation efforts (e.g. "Negawatts"), should be evaluated as possible alternatives within the standards. Many times, utilizing these alternatives results in even greater reductions in energy use and greenhouse gas emissions. Additionally, if each community was responsible for reducing their own energy footprint by a given amount, this might be a more effective and just way to reach our energy goals.

Terrestrial Ecology and Wetlands

- As stated above, mature forests and woodlands are increasingly important in carbon reductions as well as for wildlife. These areas should be not be used for utility scale wind and solar projects. If they are, a negative score for loss of GHG sequestering and floodwater capture capacity, etc. should be applied against the project.
- Projects should not be sited on agricultural buffer zones, as wildlife flourish in these locations.

- Standards must be based on the well-established fact that for bird mortality, proper siting is the only proven form of mitigation. Standards must give weight not only to population level impacts for a particular species, but also to cumulative impacts (consider the impact of all desired renewable projects) and quantitative mortality (ie: killing of large quantities of birds, bats and raptors) particularly in migratory corridors. Avian migration standards should be used as a starting point.
- There have been studies that show that large-scale renewable energy facilities can have an impact on local temperatures. This should be considered in the standards.

Water Resources and Aquatic Ecology

- As stated above, projects should not be sited on agricultural or streambank buffer zones, as these sites are crucial for healthy streams.

Visual Impacts

- Light pollution is a growing problem for birds and insects. Radar-detected lighting will keep skies dark and is a Best Management Practice, and it should be mandatory for all industrial wind projects. The technology is available.
- Solar projects should be visually screened and positive project points should be given for dividing projects into smaller tracts of land, which not only reduce visual impacts, but leave buffer zones and woodlands/forests intact.
- View shed disturbance should be kept away from special scenic areas, in accordance with the NYSDEC 2019 Visual Guidelines.
- The viewshed for solar panels must be considered closely, especially as it may affect pastoral views from scenic highways.
- NYS Department of Environmental Conservation 2019 Visual Guidelines should be followed. (See https://www.dec.ny.gov/regulations/2374.html
- Local Comprehensive Plans should be upheld.

Socioeconomic Effects

- Electrical facility safety regulations should be set by the appropriate agency in the state of New York, such that private property is protected at the same level as public property.
- The materials being used to build renewable energy systems must be responsibly, safely, and sustainably sourced.
- The changes proposed in SEQR should have a non-negative socio-economic impact on the individual communities (including property value), not just on the State.
- Most of the knowledge about the local socio-economic effects of a project rests with local communities. Therefore, community members must have buy-in to the projects

built in their community and have the opportunity to write and approve a Host Community Agreement.

- Prohibit economic taxes, tariffs, fees, or payments for non-production of energy.

Additional Considerations

- Generic Environmental Impact Statement (GEIS) – A GEIS should be written to evaluate the impact of *each* renewable technology and of the regional and combined environmental impact of the entire renewables buildout. As technologies change, the EIS should be updated using a Supplemental GEIS.
- State Environmental Quality Review (SEQR) - Require a full detailed SEQR for NYS as a whole, as well as each of its 11 Regional Areas of Sustainability, including the protection of Public Health and Safety; comparable to the SEQR for Hydrofracking.
- Public involvement in standards development – It is essential that communities be given ample opportunity for early engagement in these standards, at a time when major revisions can still be made. State officials are encouraged to take time to listen to citizens' concerns in informal settings, before the standards are written. Engagement should include elected officials, municipalities, community groups, and citizens. The process for developing the standards should be publicized with ongoing updates. Questions and issues raised in comments should be addressed as promptly as possible. Hearings should be held in regions where projects are likely to be sited, so that local communities have a strong voice.
- Article 10 Lessons - Many hearings have been held and experts have testified under the Article 10 process. Lessons learned should be incorporated into the new Siting Standards.
- Updates to Siting Standards - Standards should constantly be renewed as technology and the results of new studies are released.
- Expert involvement – Independent and varied experts should be employed or consulted in developing standards for all environmental and social impacts outlined in Article 10. These expert recommendations should be followed as closely as possible. Where available, already-existing standards developed by experts should be followed, although consultations are still recommended to obtain the most up-to-date information. The state should not rely on energy industries, which have a serious conflict of interest, to supply data about project impacts.
- Great Lakes - Recent NYSERDA and New York Department of Public Service documents have indicated the intent to install industrial wind turbines in Lakes Ontario and Erie to meet CLCPA goals. These lakes are 60 miles across at the widest point and are the smallest of the Great Lakes. Lakes Ontario and Erie have been designated as the two most stressed of the Great Lakes by the *Great Lakes Environmental Assessment and*

Mapping Project (GLEAM). https://www.circleofblue.org/2012/world/great-lakes-map-shows-greatest-stress-in-lakes-erie-and-ontario/ The Great Lakes as a whole supply 20% of the world's fresh water and this study released in 2012 highlighted some major concerns. The Great Lakes Restoration Initiative has invested three hundred million dollars per year over the past 10 years into restoring and protecting the Great Lakes Basin. It is crucial that new stressors on the lakes be limited. FMCE requests that implementing the public trust doctrine and laws that protect all users of the lakes, including the wildlife and environment, be adhered to when making decisions regarding additional Great Lakes uses and impacts, including installation of industrial renewables to meet the CLCPA. https://forloveofwater.org/programs/public-trust-education/#:~:text=Dating%20back%20to%20Roman%20times,fishing%2C%20swimming%2C%20navigation%2C%20and Potential negative impacts include but are not limited to migrating bird and bat mortality, lake turbidity impacting fish and drinking water, releasing contaminated sediments, and impacts on endangered species and lake sturgeon populations.

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