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Secretary Rebecca L. Tepper, Chair
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Subject: **EFSB 2024 Climate Act Stakeholder Sessions: Site Suitability Methodology for Clean Energy Infrastructure Straw Proposal and Site Suitability, Cumulative Impacts Analysis Guidance Straw Proposal**

Dear Secretary Tepper:

ELM appreciates the opportunity to comment and work alongside the Executive Office of Energy and Environmental Affairs ("EEA"), the Energy Facilities Siting Board ("EFSB"), and the Department of Public Utilities ("DPU") on their Staff Straw Proposals as required by, "An Act promoting a clean energy grid, advancing equity and protecting taxpayers" ("2024 Climate Act). ELM respectfully submits comments in response to the questions listed in each of the straw proposals.

Site Suitability

General Comments

- **Existing Grid Infrastructure and Impacts**: ELM supports consideration of a proposed project's proximity to load growth as forecasted in electric sector modernization plans (ESMPs) as a criterion in the Site Suitability analysis. However, ELM recommends that a proposed project should carry more weight if it is not only proximate to forecasted load growth, but also near existing grid infrastructure and/or points of interconnection, particularly interconnection points with surplus interconnection service (SIS). Such projects tend to have lower costs because they can leverage existing infrastructure, which can translate to reduced electric rates for consumers while avoiding the need to convert land for new builds. Projects should also be scored based on whether they propose to interconnect to a point on the grid where there is transmission congestion, and whether the proposed project would exacerbate or alleviate that congestion. A project's ability to reduce ratepayer costs,

avoid land conversion, and alleviate transmission congestion should be reflected in site suitability scoring.

- **Existing vs. New Rights of Way:** The 2024 Climate Act requires EEA to develop methods for site suitability for clean energy, transmission, and distribution in "newly established" rights of way (ROWs). However, there could be added benefit to assessing site suitability for clean energy infrastructure in existing ROWs (EROW) as well, including those along state and federal highway and rail corridors. Some sites in EROW may be suitable for new clean energy infrastructure facilities and create incremental benefits to communities, and others may not be suitable or create incremental burdens to communities. While not required by the 2024 Climate law, ELM recommends that EEA consider and evaluate site suitability in EROW in its scoring methodology.

Request for Comments

Site Suitability Criteria

1. Are the proposed evaluation criteria and associated metrics appropriate? Are there criteria that should be applied to certain types of infrastructure and not others?

- **Agricultural Production Potential** - ELM supports inclusion of agricultural production potential as a suitability criterion but requests more detail on proposed scoring. The straw proposal scores these sites on a scale from 0 to 10. Scores from 0 to 2.5 are well defined, but there is a big jump between a score of 2.5 ("unique farmland") and 10 (not on farmland). How will projects that are able to co-locate with farmland (i.e., "agrivoltaics") be scored? ELM encourages consideration of appropriate scoring for agricultural sites on which clean energy infrastructure could generate co-benefits.
- **Development Potential (utility infrastructure)** – The proposed scoring is based on proximity to anticipated load growth. ELM believes it is appropriate to consider proximity to forecasted load growth as laid out in ESMPs for this criterion. However, ELM encourages EEA to give greater weight to proposed utility projects that not only are near forecasted load growth, but also:
    - **Leverage existing or upgraded grid infrastructure** (i.e., grid enhancing technologies, advanced conductors, etc.). Such projects can get more out of the existing grid at lower cost for ratepayers than building new lines, while also avoiding land conversion.
    - **Alleviate transmission congestion -** ELM recommends higher scores for projects that will alleviate parts of the grid that are already congested, with consideration for when, where, and how anticipated load growth will drive need for additional transmission headroom capacity. Additional analysis is likely needed to identify these areas.
- **Development Potential (Generation)** – The proposed scoring is based on distance from grid infrastructure. ELM recommends also scoring projects based on:

  - **Impact on transmission congestion** - Projects should receive lower weight if they are interconnecting to congested parts of the grid, and higher weights if they are connecting to less congested parts of the grid.
  - **Ability to leverage Surplus Interconnection Service (SIS) –** Projects that propose a Point of Interconnection (POI) that allows them to leverage existing interconnection service should receive greater weight because it minimizes grid upgrade costs that would otherwise be passed on to consumers.
  - **Low Impact Sites -** Projects that have a low ecological impact should also be prioritized in scoring (such as those on rooftops, parking lot canopies, and on already-developed lands).
- **Social/Environmental Impacts & Benefits –** ELM strongly supports including this criterion, but requests more detail, justification, and rationale on the proposal to add 2.5 points for each listed component. In addition, ELM recommends that EEA includes projects located on existing rights of way (EROW), including those along railroads and highways, as an additional component worth extra points under this criterion.

2. Are there other criteria that should be added (e.g., public health, safety, or welfare-related metrics)? Please provide proposed metrics and data sources to assess.

- **Transmission Congestion** – for Generation and Utility infrastructure projects. See response to question 1 above for explanation.
- **Surplus Interconnection Service** - for Generation projects. See response to question 1 above for explanation.
- **Avoided Land Conversion –** Utility infrastructure projects that can meet forecasted load growth without building new wires (such as by employing grid enhancing technologies (GETs), reconductoring, dynamic line ratings, etc.) will avoid the need to convert land for new builds. The benefits of this avoided land conversion should be quantified and accounted for as a benefit in scoring utility infrastructure projects.

3. EEA proposes to assess social and environmental burdens by screening areas for existing burdens, proximity to vulnerable populations, and impacts of specific infrastructure types.
   a. Is this the right way to assess social and environmental burdens?

   - The proposed CIA framework comprehensively assess existing community burdens, including environmental burdens.

   b. Would this be duplicative of the cumulative impact analysis requirements?

   - It's unclear whether the proposed site suitability methodology is duplicative of the CIA requirements. ELM requests more information on how the two approaches would be integrated for discussion at future stakeholder sessions.

   c. Should the site suitability methodology consider whether an area hosts a disproportionately large amount of specifically energy infrastructure?

Yes, and.

Siting new clean infrastructure projects on disturbed lands or in communities that host large amounts of energy infrastructure can be lower cost relative to developing new sites far from existing energy infrastructure. This is in part because projects in these areas can leverage economies of scale and existing nearby infrastructure to more quickly and cost-effectively connect to the grid. While such projects can generate lower electric costs for the benefit of ratepayers - including those in the surrounding community - these communities have often already borne a disproportionate share of burdens associated with hosting energy projects.

It's important to weigh each project and community in context, to assess the cumulative burdens vs. benefits accruing to a particular community from existing energy infrastructure and then assess the incremental impact of any proposed clean energy project. EEA already proposes ways to address this in its CIA proposal by calculating a State & Community Baseline for comparing existing environmental, health, and socioeconomic conditions in a community. Establishing this baseline is the proper way to account for this. However, the degree to which these processes are harmonized should determine how the CIA score is factored into the Site Suitability score, and/or vice versa. More detail is needed.

4. Should EEA assess social and environmental benefits by adding points if a project would provide certain benefits, like siting facilities on brownfields or landfills, siting on the built environment, providing habitat benefits, creating local jobs, or displacing an emitting resource?

   Yes, incremental benefits of a project should accrue points and be weighed against the incremental harms of a project, which should take away points. The total incremental impact – whether positive or negative - should be weighed against the community baseline, as proposed in the CIA methodology. However, EEA should be explicit in what factors count as an incremental community benefit (and thus generate extra points for site suitability scoring), versus which criteria should be considered as separate factors that inform site selection but don't add or detract from points in the site suitability score overall. ELM generally supports scoring projects higher for being sited on disturbed lands, providing habitat benefits, and creating local jobs. If a project displaces an emitting resource, ELM recommends that this criterion be measured in terms of specific impacts, such as air quality, resilience, and/or net local jobs impacts.

   a. Are these the right ways to assess social and environmental benefits, or are there different benefits or metrics we should consider?

   - **Indicators of Harm** - There is inconsistency in how brownfields are treated in the Site Suitability vs. CIA scoring. In the CIA analysis, brownfields are listed as

a potential indicator of harm because of the existing energy burden borne by Unfairly Burdened Areas (UBAs). However, in the Site Suitability analysis, brownfields are listed as a potential environmental benefit because of avoided land conversion, with a proposal to add 2.5 points to a project's score if it is sited on a brownfield. This inconsistency highlights the innate tension of locating projects on existing sites, and ELM notes that the net impact on siting decisions will hinge on how the magnitude of each impact is weighed in scoring. For instance, if siting on a brownfield detracts 10 points in the CIA analysis, but 2.5 points are added in the Site Suitability analysis, the net impact would be a disincentive for siting on brownfields. ELM notes that this cost/benefit tension will likely exist for other disturbed lands and existing energy infrastructure sites, and ELM recommends that EEA consider what it wants to incentivize in developing scoring weights for each indicator.

- **Displacing an emitting resource –** ELM recommends that this criterion be measured in terms of specific impacts. Improved air quality associated with removing emitting resources should be worth additional points, while local jobs lost from displacing an emitting resource should be weighed against locational jobs gained from the proposed project to create a net impact on employment.

5. Is the proposal to use riverine and sea level rise exposure scores to assess climate resilience, focusing on flooding risks the right way to assess climate resilience?
    a. Should other climate risks be considered?
    b. Do different types of energy infrastructure face different risks?

    - Transmission and distribution lines would benefit from dynamic line ratings that accurately assess transmission capacity relative to the ambient temperature, which will be impacted by climate change. Such technology should be factored into the climate resilience score for linear projects.

    c. Additionally, should EEA consider not just climate risks the energy facility may face, but also how the facility may exacerbate climate impacts in the surrounding area?

    - Yes, EEA should consider how a proposed project may exacerbate climate impacts in the surrounding area, particularly if a project facilitates the interconnection of load with significant impact on the community or the grid. However, ELM notes that most projects under consideration will be clean infrastructure projects that, on their own, won't directly impact the surrounding area's climate. As such, ELM supports an analysis framework that holistically considers climate impacts both positive and negative, including emissions reduction potential, of a proposed clean energy infrastructure project.

6. The site suitability methodology is required to consider "development potential" by law and grid alignment is proposed as the metric for considering development potential for generation and storage projects. Is this the right way to evaluate development potential for these types of projects?
    a. For transmission and distribution projects, could development potential be considered by measuring the amount of load projected for that area in the future by the ESMP load projections or EEA's planned building electrification load projection analysis, and/or by overlap with designated areas of development as defined by Chapter 40R (Smart Growth zoning), the MBTA Communities Act, or other already designated areas?

- Yes, this is a good list for measuring development potential. ELM also recommends considering **transmission congestion** in this scoring, with a higher score for projects that will alleviate parts of the grid that are already congested, with consideration for when, where, and how forecasted load will drive a need for additional headroom capacity. ELM also recommends considering projects that are most capable of **minimizing costs for ratepayers** as a metric for measuring grid alignment. Projects that are capable of leverage or upgrading existing distribution and transmission infrastructure tend to be most cost effective for consumers and should receive greater weight in scoring. Finally, ELM recommends considering transportation electrification, including potential transportation hubs and other areas likely to host charging infrastructure for electric transit and fleets.

7. How should the site suitability methodology be integrated with the cumulative impacts analysis proposal(s) that will be proposed by OEJE and the EFSB? If yes, please provide specific recommendations on how this may be best achieved.

- ELM recommends that EEA provide more information on how and when during the scoring process the CIA analysis will be integrated with the site suitability methodology at future stakeholder sessions, as there are a variety of ways they could be staggered:
    - EEA could opt to feed the CIA score it into one of the 7 criteria underpinning the Site Suitability analysis (i.e., the "Environmental Burdens" criteria). If this is the proposed approach, ELM requests more detail on how the CIA score would be weighted in the Site Suitability analysis. If the CIA score is not weighted sufficiently high, it could undermine how the CIA score informs siting decisions and undercut the intended equity considerations.
    - Alternatively, the CIA score could be used to determine "ineligible" areas in the Site Suitability analysis at the front-end. It would be helpful to have case studies exploring both methodologies to understand how they impact ultimate scores and siting decisions.

Unique Infrastructure Types

8. How should this framework consider the suitability of where undersea transmission cables are sited? Note that this framework applies only to projects under state jurisdiction, which includes the portions of undersea transmission cables in state waters (i.e., 3 nautical miles or less from the shoreline).

   The proposed methodology would likely need to be applied differently to undersea transmission cables, as many of the criteria listed aren't applicable (i.e., carbon storage, agricultural lands, etc.). Further, the criteria/scoring for Development Potential may need to be revised because there are a limited set of properties where undersea cables from offshore wind projects can connect due to the set points on both ends of the line. The scoring criteria would also likely need to be structured to favor meshed/networked offshore wind projects. That said, it would be important to weigh the environmental benefits and impacts of proposed projects on the sea bed.

9. Should this methodology be applied differently to linear infrastructure (e.g., transmission lines and distribution feeders) as opposed to non-linear infrastructure (e.g., generation facilities, energy storage, and substations)? If so, please provide specific examples of how these types of facilities should be evaluated differently.

   Potentially – it depends on the details laid out in the Route Scoring methodology mentioned elsewhere in the straw proposal. Linear and non-linear infrastructure innately have different spatial footprints and community/environmental impacts, which would be reflected in the final scoring, even if the methodology is applied the same to both types of projects.

Site Suitability Scoring

10. What weights should be assigned to each criteria for the purposes of scoring?

- ELM recommends that this be a topic of discussion at future stakeholder meetings.

11. Should the site suitability methodology include "ineligible areas," with the ability for utility infrastructure to apply for a waiver?
    a. Are the potential ineligible categories proposed appropriate?

    - More clarity is needed on what the "top 20% of forests for carbon storage statewide" means, and where these sites are. In general, ELM supports restricting development on critical forested and agricultural lands, as well as biologically or ecologically sensitive or valuable lands and wetlands. ELM also supports development on brownfields or disturbed lands to minimize the need to convert existing lands for energy production, with recognition that existing community burdens should be assessed before repurposing existing sites.

b. Should any of these land categories be implemented into the site suitability methodology as criteria rather than as ineligible areas?

- ELM emphasizes that this is a matter of degree. If a site is so ecologically sensitive or provides such a high value to the Commonwealth such that development is improper, it should be considered ineligible. However, there are likely a larger volume of sites that don't meet the threshold for ineligibility, but are sites where EEA wishes to discourage development. Such sites could receive lower scores for site suitability, but these scores could be offset by adding points if a project proposes comprehensive mitigation efforts or community benefits.

c. Are there other categories of land we should consider as "ineligible areas?"

12. Which data sources and metrics should be used for scoring each criterion?

- ELM recommends that this be a topic of discussion at future stakeholder meetings.

13. Should any of the criteria scoring metrics vary for different types of energy infrastructure? If so, how?

- **Development potential** – This criteria is already appropriately delineated between generation and utility infrastructure. However, ELM notes that offshore transmission projects also warrant their own unique method of applying the criteria described – see answer to question 8 of this section for more details.
- **Linear Infrastructure** - EFSB proposes to require use of a separate Route/Site Scoring Tool that integrates CIA, but there are a lot of details that have yet to be fleshed out. EFSB proposes to use its site suitability scoring results in conjunction with the Route tool and give consideration to each set of results. When will the Route/Site Scoring Tool be developed? How will results of each be weighed in ESFB decisions? Why the need for two scoring tools?

14. How should project footprint, or the boundaries of a project's footprint, be measured?
    a. Should the definition of project footprint vary for different types of energy infrastructure, or for different site suitability criteria?

- ELM requests clarity on what is intended by the term "project footprint." Is this question intended to address the extent of a project's physical boundaries, or the surrounding area in which to evaluate the impacts of a project? If the latter, ELM recommends that the radii in which EEA evaluates project impacts vary both by types of energy infrastructure, and for different site suitability criteria.
    - **Vary by Site Suitability Criteria –** ELM notes that the extent of a project's impacts as it relates to site suitability could be very different depending on what criteria are evaluated. For criteria like carbon storage, a project's impact may be a limited radius that only encompasses the physical extent of the project site (i.e., how much carbon storage was lost from the conversion of a piece of land for a clean energy generation project). For criteria like biodiversity, a project may impair habitat

function some distance away from the project site. For criteria like social or environmental burdens, the project impact could extend well beyond the project site (i.e., air or water pollution can spread great distances, jobs may be created or lost within a particular township where the project is located). For all these reasons, impact radii for site suitability should vary by suitability criteria.

- **Vary by Types of Energy Infrastructure** – The area in which to evaluate project impacts also will vary by type of infrastructure, particularly linear vs. non-linear projects. ELM notes that the CIA framework proposes radii in which to evaluate community benefits or harms that vary for different types of energy infrastructure. ELM notes that it could be beneficial to leverage a similar approach to evaluate project impacts in site suitability analysis as well. However, ELM recommends that EEA identify analysis and data sources to inform any radii that it proposes for different types of energy infrastructure.

Guidance

15. What kinds of requirements or permit conditions should a permitting agency be able to institute based on a project's site suitability score to ensure project developers avoid, minimize, and/or mitigate environmental impacts?

    For sites that are not deemed ineligible, ELM recommends that the permitting agency be able to impose protective permit conditions based on which suitability criteria the project triggers, rather than protective conditions based on the overall site suitability score. For instance, if a project impairs a forest or wetland habitat (i.e., receives a low score in the carbon sequestration or biodiversity criteria), that should trigger permitting agency to require the developer to implement mitigative measures specific to that criteria (i.e., habitat restoration or tree planting).

Mitigation Fees

16. If they are ultimately implemented, what should be the minimum and maximum levels of mitigation fees to discourage siting in less suitable areas while not being excessive?

    ELM recommends that the Mitigation Fee be tracked to the magnitude and type of harm that it is mitigating rather than being a set maximum or minimum dollar amount or percentage of total project costs, and that revenue from fees should be expended for directly related purposes. For instance, if a project impairs carbon storage, the mitigation fee should be used to enhance carbon storage elsewhere in the Commonwealth on a magnitude commensurate with the carbon storage lost.

17. What kinds of projects should mitigation fee funds be used for?
    a. Should they be used for general conservation and resilience projects throughout the state, or for host community-specific mitigation projects?
    b. How should community benefits agreements interact with mitigation fees?

Flexibility for leveraging Mitigation Fees (or components thereof related to CIA) to pay for CBAs could be beneficial and lower costs passed to ratepayers. Generally speaking, mitigation fees should be prioritized for projects directly benefitting impacted communities, but mitigation with a clear public benefit to the Commonwealth is an important secondary strategy.

Cumulative Impact Analysis (CIA)

General Comments

- **CIA Framework is conceptually appropriate**: The proposed CIA framework has potential to drive more equitable siting of clean energy infrastructure depending on how the framework is implemented with other proposed reforms. EEA outlined several steps to execute the CIA framework, proposing to 1) map unfairly burdened areas (UBAs) and identify baseline community burdens, 2) select indicators to assess a project's incremental burdens, and 3) score each site/route for cumulative impacts. When considering where to site a project in a way that minimizes harm, it's critical to establish a baseline of existing burdens to accurately measure incremental impacts. Further, it's critical to clearly delineate the specific geographic areas (SGA) where impacts will be assessed, and to weigh incremental impacts holistically. EEA's proposed framework does all these things, and for these reasons ELM is encouraged by the overarching framework.
- **More detail is needed on harmonizing CIA framework with Site Suitability analysis to assess ability to achieve environmental justice objectives**: While ELM is encouraged by the potential of the CIA framework to advance environmental justice objectives, some details are missing that will influence how equity is factored into EEA siting decisions in practice. The final stage of the CIA flow chart proposes incorporating the CIA score with other, non-CIA related scoring metrics (i.e., Site Suitability and Routing & Siting Analysis), but there are a variety of ways the scores could be integrated:
    - EEA could opt to feed the CIA score it into one of the 7 criteria underpinning the Site Suitability analysis (i.e., the "Environmental Burdens" criteria). If the CIA score is not weighted sufficiently high, it could undermine how the CIA score informs siting decisions and undercut the intended equity considerations.
    - Alternatively, the CIA score could be used to inform "ineligible" areas in the Site Suitability analysis at the front-end. It would be helpful to have case studies exploring both methodologies to understand how they impact ultimate scores and siting decisions.
- **Case Studies:** ELM strongly supports EEAs proposal to use case studies to test its CIA scoring system as one of its next steps. However, ELM recommends that EEA open another round of public comment for stakeholders to react to the case studies and corresponding draft CIA framework. While ELM supports the overall CIA framework, there are limited details on its practical implementation, making it difficult for stakeholders to provide meaningful input on it. While ELM supports the overarching framework laid out, the devil will be in the details when it comes to how it is implemented. Having tangible

example projects to react to will best position stakeholders to provide good feedback. In drafting the case studies, ELM strongly encourage EFSB to:

- Provide targeted case studies such that stakeholders can understand the impacts of scoring on the **different types of energy projects** most likely to arise in the coming years. At minimum, ELM recommends case studies that cover i) standalone renewable generation or utility projects (i.e., solar, wind, or substation projects); and ii) linear infrastructure such as a transmission or distribution line.
- Reconcile **how the CIA analysis will be integrated with the Site Suitability scoring.** There are likely several approaches for integrating the two scoring systems and it may be beneficial for EEA to provide an example project and how its ultimate scoring differs depending on when and how during the scoring process the two approaches are integrated.
- Reconcile how the CIA analysis will be **integrated with the Routing and Siting analysis** mentioned.

- **Stakeholder Sessions** – ELM encourages EEA to host additional stakeholder discussions as these proposals are fleshed out.

Request for Comments

1. What indicators do you recommend including in the CIA model?

- **Built Environment:**
  - **Transmission Lines –** proposal lists "transmission lines" as a potential indicator, but it's unclear what harm is being captured. Does this refer to electromagnetic field (which is misinformation)? If this is what the proposal is referring to, it should measure that impact. ELM recommends removing this and replacing it with transmission congestion.
  - **Transmission Congestion Impact on Future Economic Development -** ELM encourages the consideration of transmission congestion, capacity, and/or headroom as an indicator. In other words, would a proposed project strain or enhance the ability of future load or generation projects to interconnect?
  - **Indicators of Harm -** There is inconsistency in how brownfields are treated in the Site Suitability vs. CIA scoring. In the CIA analysis, brownfields are listed as an example of an indicator of harm because of the existing energy burden borne by Unfairly Burdened Areas (UBAs). However, in the Site Suitability analysis, brownfields are listed as a potential environmental benefit because of avoided land conversion, with a proposal to add 2.5 points to a project's score if it is sited on a brownfield. This inconsistency highlights the innate tension of locating projects on existing sites, and ELM notes that the net impact in the Site Suitability analysis will hinge on how the magnitude of each impact is weighed in scoring. For instance, if siting on a brownfield detracts 10 points in the CIA analysis, but 2.5 points are added in the Site Suitability analysis, the net impact

would be a disincentive for siting on brownfields. ELM notes that this cost/benefit tension will likely exist for other disturbed lands and existing energy infrastructure sites, and ELM recommends that EEA consider this heavily in developing its proposed weighting for each indicator, and keep its weighting consistent across these similar types of parcels.

- Population Characteristics
    - Population characteristics should include analysis of anti-displacement measures on unfairly burdened populations for any clean energy infrastructure project; cultural and historic preservation and its proximity to proposed energy projects; weight on proximity to school districts/residential areas; evaluation of alternative sites that promote an equitable and just energy grid (rooftops, parking lots, and other low impact solar sites); and historic burdens from pollutants and displacement. The latter should be given higher weight when calculating overall cumulative impact from the proposed site.

2. What weights should be assigned to each indicator for the purposes of scoring?

   ELM recommends that this be a topic at future stakeholder sessions.

3. What do you think of the proposed distances of SGAs for energy facilities? Should they be broader or narrower or different for different project types?

   The proposed radii seem arbitrary - are there particular analyses or rationale for their selection? If not, ELM recommends EEA further elaborate on its reasoning for these proposed distances. For wind resources, it's also unclear if the proposed radii applies to both onshore and offshore wind.

4. What do you think of the models proposed for Cumulative Impact Analysis?

   It would be helpful to see case studies run through the model to offer meaningful input on this.

5. How should the EFSB best integrate EEA's Site Suitability criteria into its overall scoring process?

   There are likely multiple ways to integrate CIA and Site Suitability criteria, which could be explored through case studies. It may be reasonable to include CIA as one of the seven scoring criteria in the Site Suitability analysis (likely the "environmental burdens" criteria), or to use the CIA score to inform ineligible areas for development such that areas with high existing burdens could be deemed ineligible. Regardless of the method chosen, ELM recommends that EEA publish case studies indicating the likely final score and outcome under its preferred methods for incorporating both scores.

Standard Conditions

General Comments

- **Program Evaluation** – ELM recommends that EFSB identify if, when, and how it will evaluate standard condition effectiveness over time, and if there are specific conditions that would trigger updating the conditions in the interim.
- **Compliance with Applicable Regs** – ELM supports the proposal to require compliance with "all applicable federal, state, and local laws, regulations, and ordinances from which the Company has not received an exemption. The Company shall be responsible for ensuring such compliance by its contractors, subcontractors, or other agents."

Request for Comments

5. Should the standard permit conditions be fixed or should they provide a reasonable range of options, where applicable?

   ELM notes that there is a tradeoff in administrative efficiency for different parties in the permitting process depending on whether the standard conditions are allowed to be flexible vs. fixed. Providing options and flexibility in standard conditions will make development easier and more cost-effective, while fixed standard permit conditions will make state administration, inspection, and evaluation of the program easier. In general, if the objective of these siting and permitting reforms are to improve the speed of clean energy infrastructure permitting, ELM recommends a flexible set of conditions to make clean energy infrastructure development easier.

Procedural Regulations

Request for Comments

4. When local government, upon a showing that its resources, capacity and staffing do not allow for review of a small clean energy infrastructure facility's permit application within the required maximum 12-month timeframe for local government review, could request a de novo adjudication from the Siting Board Director, should the Siting Board establish a 12-month schedule for review, consistent with the 12-month schedule allowed for review at the local level?

   ELM recommends that the clock should reset in such a case, but that the limit should still be 12 months.

5. For de novo adjudications, should the Siting Board regulations provide for the opportunity for a motion for reconsideration by the Director of a de novo adjudication final decision?

   No – that has the potential to slow the process down and is counter to the intent of the proposed reforms.

New Application

General Comments

- While a purpose-built model would be more efficient for all parties, the highest priority should be having a strong CIA and Site Suitability methodology, which may be achievable with an Aggregated Form. Priority should be on making the form as short and precise as possible (and avoiding duplication) so that applicants and stakeholders can quickly assess things that matter. ELM recommends consideration of a dedicated application form down the line once there is time to complete program evaluation and measure form effectiveness for improvements.
- ELM strongly recommends that the application be an online application.

Request for Comments

6. Should the application specify specific numerical standards and analytical methods for conducting noise analyses, electromagnetic frequency analyses, visual impact analyses, and other required studies?

   If this will be a condition of the permit, then the application should specify this information. This would best prepare project proponents to conduct necessary studies to assess their project's impacts and how any needed mitigation measures would bring the project into compliance.

7. With EFSB 2.0's de novo adjudication role under § 69W, how can the Siting Board ensure that the record submitted to the Board (after first being submitted to municipalities for their consolidated local permitting purposes) meets evidentiary and procedural requirements?

   Allow for requests for information and hearings before the EFSB.

Pre-Filing Engagement

General Comments

- **Meet communities where they are, early and often:** Communities vary in their level of resources, time, and ability to be involved in DPU, EFSB, and DOER proceedings. While efforts to do community outreach and schedule public hearings are good initiatives to ensure public awareness and buy in on a project, it can strain communities that are already resource-strapped. In addition to requiring project proponents to schedule public hearings and meetings at times that are after work or school hours, it would be beneficial to recommend that project proponents identify existing or regular forums where community members gather to share information (and recommend that developers report on their attempts to do so). Doing so would minimize the "stakeholder fatigue" facing communities by leveraging existing meetings that are already designed to meet community members where they are at. Identifying opportunities for project proponent to go to these existing fora to present can and should be a priority in pre-filing implementing regulations to maximize stakeholder input at minimum cost to communities.

Request for Comments

1. How many site/route alternatives are typically considered for different project types (e.g., solar, wind, battery storage)? At what stage of the project development cycle are the project site/route options under consideration ready to be shared with stakeholders during Phase 1 outreach?

    - Site and route options should be ready to be shared during Phase 1 when the developer has enough information to answer questions, but has not yet made any irreversible decisions regarding the project siting. At least two options should be presented with an explanation of which is preferred. It would also be helpful to require developers to propose a third site/route option that attempts to address community concerns gathered during Phase 1 outreach.

2. What additional suggestions do you have to involve stakeholders, especially during Phase 1 outreach, to inform the selection of site/route options?

    - ELM recommends that developers create apples to apples comparison charts that identify the impacts of each site/route options of significant to the community (i.e., jobs, noise, trucks, pollution, length of construction, etc.).

3. [To agencies] Should meetings with MEPA and other state agencies happen during Phase 1 outreach (when there are several potential site/route options) or during Phase 2 when there are fewer options or in both phases? Please specify the agencies that should be consulted during each phase.

    - Both, as gathering agency input during Phase 1 when site/route options are being considered can help developers narrow the list of sites/projects that move to Phase 2.

4. At what point should pre-filing engagement change from Phase 1 (targeted outreach to key stakeholders) to Phase 2 (broader information sharing with wider community)? Should it be based on the number of routes/sites under consideration or other parameters?
5. This straw proposal suggests that Phase 2 outreach requirements for large clean energy infrastructure facilities should commence at least 9 months before the proponent submits the pre-filing notice to EFSB. For small clean energy infrastructure facilities, this should commence at least 6 months before. Does this timing need to be modified?

    - ELM recommends that outreach be sequence-based (i.e., host X number of community meetings) rather than timeline-based. If the applicant can work with the community to come to an agreement faster, they should be allowed to do so.

6. Are there additional pre-filing requirements that should be considered to improve transparency and ensure that potentially impacted stakeholders have an opportunity to provide input, especially around route/site selection?

    - Project proponents should, to the extent possible, identify events or meetings that key community and/or stakeholder groups are already holding to gauge if those forums provide opportunities to conduct part of their public outreach. These meetings are often in times and places already optimal to the communities they are serving, and would best position project proponents to meet communities where they are at.

7. Should the type or amount of applicant's outreach to the community vary depending on project type, scale, or location?

- Yes – a small solar project on one landowner's parcel should have a very different outreach process than a new substation in the middle of a populated Unfairly Burdened Area (UBA).

8. Is there a key stage in the project development cycle when project design is substantive enough for meaningful input, but the route/site option can still be relatively easily modified based on input?
9. Is the proposed timeframe for the project proponent to submit the pre-filing notice to EFSB for large and small clean energy infrastructure facilities adequate?
10. Which outreach channels and engagement practices are most effective and could be used by project proponents to inform the communities impacted by a project?
11. Should EFSB require that every project proponent discuss community benefit agreements with municipal representatives?

- ELM recommends that EFSB highly encourage, but not require, this provision. CBAs will vary based on the project type and magnitude of community impact, and it could be impractical to require a linear infrastructure project that touches dozens of communities to develop binding CBAs within the prescribed timelines.

12. Should the pre-filing process timelines be differentiated by technology type? If so, please explain how.
13. Should pre-filing process timelines for small clean energy infrastructure facilities that elect to seek a consolidated permit from the EFSB be the same as the pre-filing timelines for small clean energy infrastructure facilities?

Intervenor Support

Request for Comments

2. What criteria should be applied to determine if intervenors can share costs through collaboration with other parties in a proceeding to encourage cost efficiency and minimize redundancy?

   ELM recommends that DPU encourage collaboration without identifying or requiring particular criteria to cost share. It may be administratively faster for DPU to state upfront how much funding is available in the proceeding and emphasize explicitly to intervenors that splitting the money fewer ways will reduce how much money goes to administrative cost. DPU can leave the decision to intervenors to self-select whether to collaborate and cost-share.

8. What is the best way to publicize that intervenor funding will be available?

   Perhaps this should be a requirement for project proponents to make clear in any of their public outreach or public meetings.

Community Benefits Plans

General Comments

- **CBAs vs. Mitigation Fees:** CBA's and mitigation fees serve different purposes: the former help to make towns and cities whole from the very local impacts and effects on towns from energy projects, whereas mitigation is intended to compensate for losses of public goods to all residents of the Commonwealth. As such, requirements for CBAs and mitigation of impacts should be kept separate and distinct. ELM recommends that mitigation fees be tied to the magnitude and type of harm that they are causing.