

Comments on Standard Conditions Straw Poll

<https://www.mass.gov/doc/gea-standard-conditions-proposal/download>

Comments by Michael DeChiara, [REDACTED], MA

The following comments are based on a review of the Straw Poll listed on [2024 Grid Equity Act Stakeholder Sessions webpage](#)

- **Straw Poll only for large projects.** The Straw Poll on Standards (#1) refers only to large clean energy projects under the regulatory purview of the EFSB – *“The Siting Board currently issues decisions that approve, approve with conditions, or deny proposed large-scale energy facilities”*. These are solar and wind projects over 25MW and energy storage projects over 100MW. So why is it suggested that the Stakeholder sessions are hosted by *“The Executive Office of Energy and Environmental Affairs (“EEA”) Office of Environmental Justice and Equity (“OEJE”), Energy Facilities Siting Board (“EFSB”), Department of Public Utilities (“DPU”), and Department of Energy Resources (“DOER”)”*. Will these comments be applied to small clean energy projects too?
- **Presumption that large and small energy project conditions should be similar.** The straw poll states that *“the Siting Board expects to coordinate closely with DOER to ensure that there is appropriate consistency between the requirements developed by both agencies.”* Why should conditions be consistent if the new law specifically differentiated large projects from small projects presumably because of their scale and therefore their impact and regulatory needs? This assumption needs to be questioned. This is especially important since municipalities will be required to regulate small energy projects using the guidance developed separately from DOER.
- **EFSB starting point for analysis is backwards looking.** The straw poll states that *“In order to identify possible standard conditions, Siting Board staff have conducted a comprehensive review of past Siting Board final decisions”*. The entire idea of the clean energy law was to create a new paradigm that reflected new understanding and needs including climate resiliency, environmental justice, cumulative impact, mitigation hierarchy, etc. Building a new regulatory framework based on the past is missing the point and will incorporate the same dated perspectives. EFSB should start by consulting the Commonwealth’s various laws and policy documents related to climate and siting.
- **3 Categories of Conditions.** The Straw Poll identifies three proposed categories of conditions - Universal Conditions, Constructive Approval Conditions, and Technology specific conditions.
 1. **Universal Conditions are currently very limited.** The straw poll only addresses the timing of a project (3 years), the need for a project to comply with existing laws and regulations (vanilla statement), the need for a project to comply with all conditions (circular reasoning), updated cost information, placing limits on diesel vehicles and encouraging EV vehicles, implementing a community outreach plan, and worksite hours. There is no environmental focus, no site suitability focus, no

mitigation requirements (see mitigation hierarchy in the law). Community engagement, including with municipalities, seems one-sided with no room for feedback. So much missing!

2. **Constructive Approval Conditions.** Constructive Approval Conditions are VITAL since if the EFSB does not make a timely decision, it will be these conditions that a project must adhere to. These are similarly devoid of protective measures intended in the clean energy law. Currently they only address: excavation of contaminated soils, limited but allowable use of PFAS, replacement of disturbed wetlands, lighting, flooding and the need for emergency response plans.
3. **Technology Specific Conditions.** These are also very limited. They only address transmission lines. There is nothing here about energy storage or large scale solar or wind.

The Specific Questions being asked of stakeholders

Questions 1-4 are only directed to permitting agencies. The straw poll states “*Permitting agencies*” refers to all state, local and regional permitting entities. The Siting Board welcomes comments from all of these entities on the questions indicated”.

So what about the many other stakeholders???

1. [To permitting agencies:] What Universal Standard Conditions (Level 1) does your agency recommend for inclusion in future consolidated Siting Board permits to reflect essential functions and requirements of your agency?
2. [To permitting agencies:] What Constructive Approval Conditions (Level 2) does your agency recommend for inclusion in future EFSB consolidated permits by constructive approval to reflect essential functions and requirements of your agency?
3. [To permitting agencies:] Which, if any, of your agency’s permits should be exempt from being included in future consolidated Siting Board permits, and what is the statutory or practical basis for such exclusion?
4. [To permitting agencies:] How would you propose that the Siting Board consider an agency’s project-specific Statement of Recommended Conditions in the event of a constructive approval?
5. Should the standard permit conditions be fixed or should they provide a reasonable range of options, where applicable?