RENEW Northeast

Email: nraike@renew-ne.org
Web: renew-ne.org

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By email: sitingboard.filing@mass.gov

The Executive Office of Energy and Environmental Affairs;
The Office of Environmental Justice and Equity;
The Energy Facilities Siting Board ("EFSB");
The Department of Public Utilities ("DPU"); and
The Department of Energy Resources ("DOER")

c/o The Energy Facilities Siting Board
One South Station
Boston, MA 02110

Subject: 2024 Climate Act Siting and Permitting Reforms Straw Proposals

RENEW Northeast, Inc. ("RENEW")[1] submits these comments in response to 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") (collectively referred to as the "Implementing Agencies") request for written comment on the law to implement the Siting and Permitting Reforms straw proposals pursuant to Chapter 239 of the Acts of 2024 (the "Climate Act"). Thank you for hosting technical sessions and providing an opportunity for public input on the design of the single consolidated permit that comprises all state, regional, and local permits that a "clean energy infrastructure facility" would otherwise be required to obtain to develop clean energy projects. With the number of questions and requests for feedback by the Implementing Agencies, having working groups on many topics would be beneficial.

Successful implementation of the consolidated siting and permitting regulations has the potential to benefit development of clean energy resources in the Commonwealth. However, RENEW is concerned that the many aspects of the Straw Proposals will create a restrictive regulatory environment hindering rapid development of clean energy resources. The Straw Proposals also suggest clean energy facilities will have adverse effects on communities, akin to a fossil unit, without acknowledging positive characteristics and contributions to local communities and the Commonwealth. Last fall, RENEW issued a new report, *Massachusetts Clean Energy Procurement Needs,* that showed the urgency for contracting clean energy projects to keep the Commonwealth on a trajectory to meet its commitments to reduce greenhouse gas emissions.[2] These technologies are critical to providing the electricity that keeps our lights on,

[1] The comments expressed herein represent the views of RENEW and not necessarily those of any particular member of RENEW. RENEW Northeast (www.renew-ne.org) unites environmental advocates with developers and operators of the region's largest clean energy projects to coordinate their ideas and resources with the goal of increasing environmentally sustainable power generation in New England from the region's abundant renewable energy resources.

[2] Power Advisory, *Massachusetts Clean Energy Procurement Needs* (October 21, 2024), https://drive.google.com/file/d/1HyHDOfSJhZaWIYNftdioTxZ7HP960lpQ/view

our home appliances running, buildings air conditioned and heated, and our businesses operating. Clean energy can lower reliance on those fossil fueled power plants that operate infrequently but provide critical support during hours with the highest customer demand, often at the cost of high amounts of greenhouse gas emissions and high prices. In addition to the greenhouse gas benefits, the ability of clean energy resources often to displace these peak time resources will create equally and sometimes more valuable local air quality benefits, associated with reductions in particulate matter and its precursors.

RENEW has reviewed the joint comments submitted by the Solar Energy Industries Association ("SEIA"), The Alliance for Climate Transition ("ACT"), and the Coalition for Community Solar Access ("CCSA") (collectively, "Clean Energy Industry Partners.") We are using this opportunity to offer out general support for their positions while elaborating on those issues that are of higher importance to our members as it relates to transmission-interconnected projects.

I. Standard Conditions Straw Proposal

As suggested by the Clean Energy Industry Partners, if properly implemented, developing three categories of standard conditions can reduce the burden of adjudicating routine issues and provide certainty to both developers and communities. RENEW echoes these comments regarding the development of three categories of standard conditions.

It is imperative to stress how clean energy infrastructure projects are unique, and that not all projects will have substantial impacts on the natural or human environment and that each project is highly impacted by specific technology, design mitigation, and location considerations. While the EFSB has indicated the set of standard conditions proposed in the straw proposal are not comprehensive and that other conditions may be added, RENEW wants to take this opportunity to provide additional comments and recommendations on the proposed conditions. We recommend EFSB host technical sessions or working group meetings with stakeholders to refine the language of specific conditions and assist in the development of guidance documents in certain instances to allow for flexibility over time as experience develops with the siting regulations.

A. Universal Standard Conditions: Project Changes

RENEW agrees with the Clean Energy Industry Partners comments that the current standard of "minor variations" could result in a burdensome number of notices being filed, especially in instances where changes are minor and lack relevant project impacts. Any regulations should provide categories of what aspects of change to a project are presumed to be minor variations. Guidance would enhance certainty around the need to file project change notices, which cuts down administrative time and costs both for developers and for the EFSB.

B. Universal Standard Conditions: Updated/Certified Cost Estimate

While it may be responsible for the EFSB to have a continuing interest in the cost of ratepayer funded grid infrastructure projects, this interest should not be extended to clean generation and storage projects. By and large clean generation projects receive private financing

and may be supported by ratepayer-funded incentive programs or procurements. Those programs and procurements typically provide a fixed price, leaving project proponents responsible for any cost increases. A better forum to adjudicate cost estimates would be in the design and implementation of programs and procurements that support clean energy projects, which is not relevant to a project's ability to receive a permit.

C. Universal Standard Conditions: Diesel Vehicle Regulations

The Straw Proposal includes a condition directing project proponents ensure all diesel-powered non-road construction equipment be certified to the most recent U.S. EPA Tier emission standards.[3] While RENEW appreciates the intent to decarbonize the construction sector, the siting and permitting process is not the right venue to require diesel compliance. This requirement will largely require compliance from subcontractors who may not be involved in this process and may even be counterproductive to decarbonization goals if it causes subcontractors to purchase new diesel vehicles to comply with this condition. RENEW recommends that this condition not be adopted and/or be adjudicated in the Building Code or another appropriate venue, such as Advanced Clean Trucks rulemaking, which will allow broader feedback on the proposal.

D. Universal Standard Conditions: Conversion to Electric Vehicles

The Standard Conditions Straw Proposal includes a condition directing project proponents submit electric vehicle ("EV") feasibility reports at regular intervals a report to the EFSB.[4] Mandating regular interval reports creates duplicative requirements that run counter to the purpose of this proceeding to streamline and expedite the siting and permitting process. This requirement for an EV feasibility report would increase administrative time and cost to project review. If the EFSB adopts such a condition, RENEW emphasizes the Clean Energy Industry Partners that the condition warrants a "compliance filing" rather than a "report." Moreover, requiring three reports throughout the development process creates duplicative work; it would be sufficient to require such a filing prior to construction and after construction competition. Alternatively, RENEW recommends that this condition be reserved for a venue dedicated to vehicle regulations.

E. Universal Standard Conditions: Community Outreach Plan

The Standard Conditions Straw Proposal includes a condition directing project proponents to develop and disseminate a community outreach plan prior to project construction.[5] RENEW supports robust and effective community outreach and engagement. The Standard Conditions Straw Proposal, though, does not provide specific details on how developers can satisfy the requirements of the condition. Moreover, mandating requirements for how project proponents engage in community outreach does not consider the processes and practices project developers implement to identify a singular potential site. The standard condition does not provide flexibility for project proponents to make necessary adjustments in how outreach is

[3] Standard Conditions Straw Proposal at 5.
[4] *Id.*
[5] *Id.*

conducted. RENEW recommends this condition not be adopted and the condition would be better discussed during the prefiling process.

F. Specialized Conditions: Battery Safety

The energy storage industry believes safety is of the utmost importance. Nationally, energy storage safety incidents are very rare, however, as part of an effort for continuous improvement, the industry is prioritizing the incorporation of the latest best practices and strategies to maintain safety. State and local governments can support the responsible deployment and operation of energy storage by pursuing clear, uniform, and rigorous standards.

Battery developers and fire safety and protection leaders engage in frequent collaboration throughout both the development and lifetime operation of the project. Adopting the most up-to-date edition of the National Fire Protection Association ("NFPA") standard for energy storage systems ensures evidence based, expert-driven rules govern the safety of energy storage projects. Uniformity in adopting and implementing this standard across states and jurisdictions will ensure that clear, evidence-based rules guide the future development and operation of energy storage facilities.

The Commonwealth has already adopted the NFPA 855 standards. This standard reflects the current best practice for mitigating safety and fire risks at battery storage facilities. NFPA 855 includes mandating fire suppression at all storage projects and two options to mitigate against explosions. Preventing risk takes precedence, which has led to industry best practice combining explosion prevention with fire containment while protecting adjacent enclosures and nearby equipment. This approach avoids the possibility of contaminated runoff, eliminates risks associated with stranded energy and reignition, and allows for the successful prevention of propagation of fires from the specifically affected units to the broader site. This containment strategy also mitigates risks to adjacent properties.

G. Procedural Regulations Straw Proposal

The Procedural Regulations Straw Proposal is a good starting point for updating regulations to implement the Climate Act. However, the nature of the procedural regulations makes the details critical to successful implementation, and at this early stage it is difficult to provide substantial comments. RENEW agrees with the Clean Energy Industry Partners regarding many aspects of the Straw Proposal, including the use of newspapers for public notices; public site visits; and, de novo adjudications. RENEW would emphasize specific aspects, including:

- RENEW agrees that printed notices may not be as effective as they once were, if material is to be distributed in print, that material should direct recipients to longer, detailed electronic notices and postings;
- The purpose of a site visit is to provide regulators with an opportunity to review technical project details in the field. Opening a perspective site to the public increases the potential liability and complexity for a visit, including requiring interpretation and translation, as well as ADA compliance; and,

- RENEW recommends the EFSB maximize the reduction of permitting time by not penalizing projects that have undergone meaningful progress at the local government prior to a de novo request by requiring that project restart the twelve-month adjudicatory process.

H. Decommissioning Activities and Expectations

RENEW supports responsible use of clean energy resources including sustainable disposal solutions through advanced recycling and repurposing methods that will minimize waste and maximize the environmental benefits of clean energy. The EFSB should anticipate changes and advancements in decommissioning technology over the project's life, as such, any decommissioning plan should be for informational purposes and should allow for periodic updates by the project owner to give the project owner the opportunity to adapt to the decommissioning actions available at the end of the project's life. Substantive decommissioning requirements should not be part of procedural regulations.

I. 980 CMR 13.00: 980 CMR 13.00: Consolidated Permits for Clean Energy Infrastructure Facilities

RENEW is concerned that the completeness determination possesses the potential to extend the deadlines set in the Climate Act. The EFSB should endeavor to make the factors for determining application completeness as clear and objective as possible and avoid any unnecessary uncertainty or vagueness.[6] For large clean energy projects, the fifteen-month permitting timeline is moot if a completeness determination is uncertain or dragged out due to ambiguities as to when completeness is achieved.

II. New Applications Straw Proposal

The New Applications Straw Proposal provides a good starting point for a dialogue on how best to craft an application process that meets the requirements and intent of the Climate Act. Any new application process developed and implemented by the EFSB should prioritize efficiency and avoid information requirements unnecessary for review and consideration. It should anticipate the EFSB's review of jurisdictional projects, including discovery and evidentiary hearings, which will lead to a level of detail in the final record of the proceeding that it is not practical to provide in the application itself.

As described by the Clean Energy Industry Partners, an effective project application must set clear and objective baselines that allow for an objective completeness determination and set the stage for efficient hearings.

A. Aggregation or Purpose-Built Model

Whether the EFSB adopts the "aggregation" or "purpose-built" model and a common application, this approach should not be prescriptive. RENEW generally supports the approach outlined in the Straw Proposal, provided the application model is implemented in a way that

[6] *Id.* at 5-6.

reduces or minimizes redundancies and streamlines the process. Implementation of any prescriptive application may unnecessarily add time and cost relative to the permitting process.

RENEW recommends the application process be crafted for a completeness determination to be made within the statutory deadline that minimizes deficiency determinations and serial revisions. The EFSB should endeavor to make the factors for determining application completeness as clear and objective as possible and avoid any unnecessary uncertainty or vagueness. To ensure expeditious completeness determinations, RENEW encourages adoption of a straightforward filing checklist and a rebuttable presumption that, if an applicant has provided everything in the checklist, the application is complete.

Another concern is that any process that requires some level of "pre-approval" or acceptance from other state and local agencies outside of the siting and permitting process would negatively impact the intent of the 2024 Climate Act. A key consideration for the EFSB will be the identification of all state and local permits in the application, and that any questions of permit applicability must be addressed by the proponent with the permitting agency prior to submission of an application. This language is problematic in circumstances where local agencies or residents oppose particular projects or technologies.

Local permitting agencies could impose conflicting or unreasonable application requirements, which would leave an applicant unable to begin the EFSB process. Alternatively, a project may have to go before a board or commission that is not a party to the consolidation process. A consequence would be the inability to streamline the permitting process and could effectively front load the permitting of necessary energy projects on a piecemeal basis, essentially providing local and state agencies a potential "veto" or delay opportunity prior to the filing of any EFSB application.

B. Numerical Standards and Analytical Methods for Conducting Noise Analyses

Setting new and inflexible requirements as part of the application process runs the risk of unintended consequences, particularly given the diversity of projects likely to come before the EFSB. Conducting the necessary process to set new standards in this area would add significantly to the already substantial burden associated with implementing the Climate Act on the statutory timeline. On the other hand, standards could be developed that would be beneficial to implementing components of the Climate Act and spur development of critical clean energy storage resources.

C. Noise Standards

RENEW agrees in principle with comments provided by the Clean Energy Industry Partners that one area that could benefit from consideration is how noise is regulated in the Commonwealth. The Massachusetts Department of Environmental Protection ("MassDEP") regulates noise pollution under 310 CMR 7.10 (the "Noise Control Regulation"), which was adopted under statutory authority granted by M.G.L. c. 111, §§ 142B and 142D (the "Noise Control Law"). The DEP Division of Air Quality Control ("DAQC") promulgated Policy 90-001 (the "Noise Control Policy") in 1990 to set forth the criteria DEP uses to evaluate noise impact.

The Noise Control Regulation and Noise Control Policy regulate all outdoor noise pollution, ranging from sounds emitted by construction sites to sounds emitted by roosters or rooftop equipment.

RENEW recommends a new noise framework for battery energy storage systems ("BESS") be incorporated into the siting law regulations. Regulatory authority to adopt new regulations may potentially be found in several sections of the Climate Act.

A source of sound is considered in violation of the current Noise Control Regulation if, *inter alia*, the source increases the broadband level by more than 10 dB(a) above ambient (defined as the background A-weighted sound level that is exceeded 90% of the time measured during equipment operating hours). RENEW would like to offer a revised approach for measuring noise from an energy storage facility that is based on a constant limit, rather than the current use of a relative measure.

RENEW has observed the following challenges for clean energy development with the current model:

- BESS emit relatively low levels of noise when in use, but when placed in areas with preexisting low levels of ambient noise, these levels can exceed restrictions under the Noise Control Policy. By setting restrictions based on increments above ambient noise levels, the Noise Control Policy effectively promotes placing BESS in locations where residents already suffer from noise pollution, whereas quiet communities receive greater protection because a BESS will easily exceed ambient noise levels in quiet communities. This goes against the Commonwealth's goals of promoting clean energy storage facilities for all communities and areas.

- The methodology under the Noise Control Policy makes it challenging for projects in some urban or industrial areas to comply with the relative standard as it discards certain noise events or spikes (e.g., heavy truck traffic or aircraft) from the ambient noise level.

- Additionally, the current Noise Control Policy lacks clarity as to whether noise impact is measured from the property line of a noise emitter or from the nearest inhabited dwelling. This leads to uncertainty in the application of the Noise Control Policy and the predictability of where BESS can be sited.

Without a comprehensive review of how noise regulations disincentivize BESS development and run counter to the Commonwealth's environmental justice and equity goals, the intent of the Climate Act will be undermined. To provide clarity for the development of BESS, RENEW would like to reiterate the Clean Energy Industry Partners' request that the Implementing Agencies in consultation with MassDEP expeditiously convene a stakeholder workshop to develop an approach to improving the standards applicable to noise from clean energy facilities and to incorporate those standards efficiently into the review processes at the EFSB and municipalities.

III. Prefiling Engagement Straw Proposal

RENEW reiterates support for the comments made by the Clean Energy Industry Partners. As proposed, the Straw Proposal would result in problematic delays in the permitting of clean energy facilities. Under the current framework, the permitting review period of clean energy facilities is nearly doubled, adding fifteen months of prefiling engagement to the fifteen-month maximum approval period at the EFSB. In sum, the process would be nearly three years for these projects: This represents no differentiation from the preexisting law for projects and is increasingly more burdensome than preexisting law for storage projects. It is contrary to the intent of the Climate Act.

Prefiling outreach requirements outlined in the straw proposal are overly prescriptive, with rigid and hugely onerous/infeasible timeframes, and may risk creating an adversarial posture between communities and clean energy developers. Moreover, outreach should not be a generic, "one-size-fits-all" approach. As written, the current straw proposal does not offer the degree of flexibility required to account for how clean energy infrastructure projects are unique and that each project is highly impacted by specific technology and location considerations.

Unfortunately, as currently proposed, the Straw Proposal would make developing clean energy generation and storage more time consuming, more complicated, and more expensive—all attributes that run contrary to the intent of the Climate Act, significantly limiting the Commonwealth's ability to meet the prescribed climate and energy goals.

The Prefiling Engagement Straw Proposal is rife with examples of this rigidity that is both harmful to the development process and not effective with respect to community engagement. By way of example, the current straw proposal would require developers to conduct a community meeting in the form of the EFSB's public comment hearings where the meeting and presentation start at a specific time. This can discourage residents who cannot make the start of the meeting from attending, and prevents developers from conducting public meetings in an alternate format that may actually be more appropriate for the community – such as open houses that provide a more open and personal format with a rolling start time that would allow residents to show up when most convenient for them as well as getting one-on-one access to developer representatives and quality opportunities to learn and provide feedback. In another example, the straw proposal mandates that the developer cover a large number of pre-set topics in each meeting about the project. This requirement limits the developer's ability to tailor meetings to the interests of the group or individuals with whom the developer meets. If, for example, a BESS developer meets with a fire chief, the developer should appropriately be allowed to limit the meeting materials to fire-safety issues—and not be required, as the Straw Proposal suggests, to touch on topics unrelated to that stakeholder's interest or expertise. It is imperative that developers be afforded the flexibility to tailor stakeholder outreach to the specific circumstances of the project, making for more productive meetings and stronger relationship building. The issue of pre-set topics for community engagement meetings also presents the issue that different developers on different project timing may or may not be able to address certain prescribed topics based on the current stage of the development process.

RENEW suggests the EFSB prioritize a prefiling process that is streamlined, clear, and direct in its requirements while retaining flexibility with the consultation timeline requirements. Should the EFSB adopt strict timeframes, they should be guidelines and suggestions, not rigid requirements subject to strict enforcement. For instance, it is unnecessary to divide prefiling engagement into two phases that have similar requirements, such as two "self-attested" checklists. Any redundant approach will add unnecessary burdens to all parties, benefiting no one. Meaningful engagement is not a "one-size-fits-all" process because no two projects or communities are the same. Each project is highly fact, design, technology and location specific. Procedures should be flexible to recognize a project's uniqueness and prior engagement history.

Additionally, as discussed in the New Applications Straw Proposal, the prefiling proposal contains vague requirements that are neither measurable actions nor in a project proponent's control. As noted in the Clean Energy Industry Partners comments, an example of this is the requirement for project proponents to submit a certification from "affected municipalities" about negotiation efforts.[7] The term "affected municipalities" is vague and could create uncertainty both for the community and the project proponent. Further, a project proponent has no clear way to compel a municipality to submit certification thus giving municipalities a *de facto* veto on any project.

Furthermore, the New Applications Straw Proposal does not provide interim guidance for clean energy projects that have begun community engagement and outreach prior to the implementation of these regulations. The EFSB must promulgate interim guidance for how to best grandfather in existing projects. A lack of guidance or requiring existing projects to restart the process under the new regulations would needlessly delay critical energy infrastructure crucial to meeting the Commonwealth's climate and energy goals.

A. Alternative Sites and Routes

In response to the EFSB's question on alternative sites and routes considered for different project types, the EFSB must recognize the realities of development by independent power producers, particularly the development of large BESS, and be aware of the significant differences between their development efforts and an EDCs development of grid infrastructure facilities. The Climate Act correctly does not require clean energy generating facility developers to present alternative routes or sites in its stakeholder outreach, rather it requires developers to present "a description of the site selection process and alternatives analysis used" in determining the singular site location.[8] The Straw Proposal is needlessly conflating transmission and distribution project applications and generation and storage facilities. Generation and storage facility developers are advancing projects that will be built or fail based on their own merits, unlike an electric distribution utility ("EDC"), which is determining the optimal approach, among many options, to addressing a reliability need.

[7] Prefiling Engagement Straw Proposal at 10.
[8] G.L. c. 164, § 69T(d).

If the intent of the Straw Proposal is to imply that clean energy generation and storage projects are required to engage stakeholders at alternative locations, it would impose undue burdens on both developers and communities. For example, engaging stakeholders around a particular alternative site ahead of having the property rights for that site is an exercise in vain as it may be impossible to even obtain the necessary property right. This would be inconsistent with the intent of the Climate Act. To better understand the mismatch between the "alternative locations" requirement in the Straw Proposal, with the reality (and the necessity) of development, one must better understand how a developer selects sites. Before a developer has a potential project that it can present to stakeholders, it must invest a significant amount of capital and human resources to find a potential site. This is a time-consuming and expensive process, oftentimes taking several years to complete. This is because non-EDC clean energy developers must go where the grid has capacity. For BESS, for example, this is typically at existing EDC substations where there is sufficient land to develop nearby. The combination of available grid capacity and available (and appropriately sized) land narrows options down to very few. A developer may evaluate an entire region of the Commonwealth to find just a *single viable option* for a large BESS. Further, before presenting information on its proposal publicly, the developer must attain site control so as to lock in the land position before another developer is able to secure it. This is a highly competitive process. It is only *after* it has site control and started what will be the years-long interconnection process with ISO New England (ISO-NE) that a developer can begin community outreach. And it is only at that point that a developer has sufficient certainty that it may build in that location that the company will dedicate precious limited resources to engage in community outreach. To force a developer to acquire the rights to multiple parcels and points of interconnection for what will be a single large project is neither practically nor economically feasible. And it would be disastrous to the development and community outreach process to give residents and other stakeholders the option to evaluate between locating a large BESS or any energy infrastructure in their community or another community.

As the Climate Act recognizes, opposition is actively preventing the development of the energy infrastructure needed to meet the Commonwealth climate and emission goals, including for clean energy projects that are well-sited and which have had years of meaningful and well-structured community outreach. The current Straw Proposal structure is harmful in that it reinforces opposition for opposition's sake, while eliminating essential flexibility in developer outreach strategy. RENEW would encourage the EFSB refrain from instituting such a requirement on clean energy developers, as the permitting process is not a suitable forum to adjudicate why one site is better or worse than another.

B. Community Outreach Agreement Pathway

Successful development must involve meaningful and productive engagement with the community. It's important that developers approach community members with clear and well-developed plans and the ability to answer and respond to community member's questions and concerns. To ensure that developers are approaching the host community with informed plans, the EFSB could implement a permitting methodology similar to the Connecticut Siting Council

("CSC") that has community feedback gathered shortly prior to an application being submitted.[9] This allows the engagement to clearly discuss concerns within the application itself, rather than a hypothetical project.

Following the CSC model, RENEW recommends a community outreach agreement that follows this pathway:

- **Municipal consultation**: Developer consults with key stakeholders in the host municipality and discusses a draft EFSB consultation. Municipality and developer work to revise EFSB application in conjunction to address local community concerns.

- **Within 90 days of consultation:**
  - Developer submits a final EFSB application, documenting any revisions from local consultation
  - Municipality submits recommendations regarding the project to the EFSB

- **EFSB Review Process begins**
  - The EFSB process continues as proposed by Massachusetts

Given that many of the questions a community will want answers to will be contained within the EFSB application, requiring significant outreach before a plan is developed is likely to be frustrating for community members, as developers will have yet to perform key studies needed to answer questions fully. By approaching the municipality and community members with a draft application, developers can appropriately work through local concerns, as well as clearly direct any additional comments to the EFSB, which can act as a third-party mediator to ensure all concerns are being addressed.

RENEW supports the EFSB establishing facilitator-led working groups to flesh out more flexible and tailored prefiling engagement requirements prior to drafting regulations.

IV. Intervenor Support Grant Straw Proposal

RENEW generally supports the straw proposal to implement the Fund to ensure that all communities and stakeholders are provided with the opportunity to participate and benefit from the clean energy transition. Additional consideration is warranted on the framework to ensure that ratepayer funds are used effectively. Specifically, application of this fund should neither be used by parties to bolster capacity operations nor should funds be distributed to organizations expressing similar positions across related dockets or proceedings. The EFSB should endeavor to ensure that the application of these funds not exacerbate affordability issues for ratepayers or delay the regulatory review process.

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[9] Connecticut Siting Council, *Electric Generating or Energy Storage Facilities*, , (October 2024), https://portal.ct.gov/-/media/csc/guides/2024/elec-gen-and-storage-application-guide-regsversion_a.pdf?rev=cd120e3da7c7457e86fad3a91778bb25&hash=1B3661D2B083B40EF91DEFECEDC55406

V. Community Benefits Plans Straw Proposal

RENEW recognizes that a community benefit plan may be an appropriate mechanism to memorialize the energy and environmental benefits of a project with a community. Because every community and clean energy project is unique, guidelines, procedures and standards adopted should support communities and project proponents to craft solutions that fit each individual community's needs, rather than prescriptive or rigid guidelines. Flexibility will be critical to meeting this goal. However, a community benefit plan or agreement should not be a prerequisite for issuance of a final EFSB decision – consistent with long-standing EFSB practice of not requiring a Host Community Agreement for issuance of the final decisions for large transmission projects.

The examples provided by the OEJE include investments in community centers, mental health, substance abuse services, affordable housing, bike paths, and other topics regardless of whether they have a direct impact caused by a clean energy infrastructure project. The EFSB should refrain from negotiating, approving, or acting in any adjudicatory capacity when evaluating these agreements, as these plans are only effective if they exist outside of the regulatory process. Further, any attempt by the EFSB to condition permit approvals to the benefits plan or agreement adds unnecessary burden not only to the EFSB but also hamper a project proponent and community to work towards a mutually beneficial agreement. The best way to build consensus on these topics would be through a stakeholder working group to inform standards and guidelines regarding the use of community benefits plans.

The EFSB also sought information on how any community benefit plan may exacerbate affordability issues for ratepayers. Clean energy projects that are brought before the EFSB are not financed through rates; this financing mechanism pertains to a regulated EDC. Rather, project developers are often privately financed and generally seek investment recovery through competitive markets managed by the regional operator. Under this construct, developers are not able to pass on the costs of a benefits plan or agreement to ratepayers, and do not directly relate to energy rate increases. What this does mean, though, is that implementation of a community benefits plan or agreement is factored into the cost of the project, which means the project becomes more expensive.

Additionally, the straw proposal does not consider the benefits that will be derived from clean energy infrastructure deployment in a community. New energy resources emit zero air emissions and will add to a local community tax base. By purposefully discouraging clean energy development in environmental justice communities, the EFSB is implicitly limiting those communities' participation in the clean energy transition.

VI. Site Suitability Criteria Straw Proposal

The Climate Act required EEA to develop a methodology for determining site suitability criteria for clean energy generation and storage facilities using geospatial screening criteria. The Site Suitability Methodology Straw Proposal heavily incorporated elements of the Commonwealth's SMART Incentive Program for land use. RENEW recognizes that this is a positive starting point for discussion about these important and complex issues. However, the straw proposal takes an inherently negative and restrictive posture regarding the impacts of clean

energy facilities that largely ignores the positive contributions these projects will have to local communities and the Commonwealth. RENEW would encourage the EFSB to convene additional stakeholder sessions or working groups and continue to seek input on these complex issues.

A. Use of Geographic Information Systems Data

It is paramount that the regulations emphasize that the Geographic Information Systems ("GIS") sources in the regulations that the EFSB will promulgate are only informative, not determinative. Currently, Massachusetts is a challenging location to develop large clean energy projects. Should the EFSB implement the outlined scorecard approach, the Implementing Agencies should design a rebuttal system to allow project proponents to argue for exemptions of specific criteria. One substantial concern RENEW has is that this scorecard concept ignores the plethora of mitigation measures developers can utilize to effectively alleviate the impact of a project as it relates to any specific criteria, instead just focusing on the possible negative impact. To address this, other criteria that may be added to the metrics could focus on the ability of the developer/project to effectively mitigate its impact, i.e. through design considerations. Additionally, the EFSB should consider adopting a mechanism to allow for comprehensive review of selected GIS sources and permit flexibility if better authoritative sources, new science, or project-specific information becomes available. In essence, the use of any criteria should be grounded in the most up-to-date science and allow for adaptive management by the EFSB.

Maintaining the existing discretion of the EFSB is paramount because any generic geospatial screening will be flawed. We are fortunate that the EFSB already evaluates site suitability on a detailed project-by-project basis. That should not change. Proceedings for a consolidated permit are not simple, check-the-box processes to evaluate hundreds of projects for incentive eligibility. Instead, consistent with all EFSB proceedings, cases for large clean energy project siting will be thorough, detailed adjudications that include a robust record to allow the EFSB to determine whether the proponent has shown that its unique project and project site are appropriate for the requested development. Guidance, as the EFSB has developed already in its precedent, shapes the developer's site selection process because developers will need EFSB approval to move forward with its BESS project.

B. Scoring Methodology

When considering the application of what would be a prescriptive, generic approach to site suitability, the EFSB should consider the realities of development. For large-scale BESS, for example, the first factor that a developer must consider is whether there is capacity to interconnect the proposed BESS to the electric grid. If there is not available capacity on the applicable substation, then the location is not viable because it would require the significant cost and delay that comes with the construction of a new transmission substation. The economics of a new substation would make a BESS infeasible for developers as well as ratepayers. After finding a substation with adequate capacity, a developer must find an appropriately sized parcel. This can be a difficult process; if the only available parcels are many miles away, then that substation is not a viable option given the significant costs and challenges associated with constructing the required generation interconnection line. Although this reality shows the limited land and route options for the development of large BESS, the availability of capacity in isolation should of

course not be determinative of the EFSB's site suitability analysis. But as the EFSB promulgates these regulations, it should consider that BESS can only be built in locations that have existing substations with available capacity, which are areas that are already home to significant energy infrastructure. Prescriptive, determinative standards will restrict the EFSB's ability to evaluate the appropriateness of what is already a very limited set of locations where a large project can be sited.

Additionally, it is important to recognize that GIS data available on-site suitability will inevitably be inaccurate, incomplete, or not updated in a timely manner. It is simply not feasible to maintain fully accurate and up to date data on every parcel in the Commonwealth. These data also would not consider the actual details for the proposed project. For example, the GIS data may accurately show that a parcel is in existing flood plains. However, a generic scoring system would not consider that a developer has the opportunity (and plans) to raise the site to ensure that it is outside the flood plain. Again, the GIS data can be helpful guidance, but it should not restrict or limit the far more precise and detailed evaluation that the EFSB makes on a case-by-case basis to determine site suitability for each proposed project

Further, the proposed criteria and scoring methodology creates an adversarial approach to determining project site suitability and does not adequately weight projects that reduce costs to ratepayers or take into account project maturity. There are two approaches to account for this. First, the "Social and Environmental Benefits" criteria could be amended to increase the maximum number of points to fifteen for projects which demonstrate an ability to provide benefits to environmental justice communities, low-income ratepayers, transitioning communities away from fossil fuel generation, reliability benefits and grid resiliency, and project maturity. Alternatively, the Implementing Agencies could add a new criterion and scoring category that specifically provides attributes for project maturity. This criterion should award an additional fifteen points. Implementing a project maturity criterion, that in part is based on project proponent experience and track record as a developer and track record in project safety. This ensures that the Commonwealth is prioritizing least-costs to ratepayers and reducing administrative burden. Regardless of approach, scoring for this criterion should be derived from qualitative analysis of a project, which will have been assessed through prior activities in the siting and permitting process.

Every clean energy project and community is unique, and the EFSB should refrain from using artificially manufactured scores based on imprecise, incomplete GIS data. Any criteria should be used only as initial guidance for the developer and the EFSB. It is the EFSB that has the expertise and responsibility to evaluate each proposed project, and the practice of relying on EFSB's discretion to evaluate site suitability should continue.

Maintaining the existing discretion of the EFSB is paramount because any generic geospatial screening will be flawed. The EFSB already evaluates site suitability on a detailed project-by-project basis. That should not change. Proceedings for a consolidated permit are not simple, check-the-box processes to evaluate hundreds of projects for incentive eligibility. Instead, consistent with all EFSB proceedings, cases for large clean energy project siting will be thorough, detailed adjudications that include a robust record to allow the EFSB to determine whether the proponent has shown that its unique project and project site are appropriate for the

requested development. Guidance, as the EFSB has developed already in its precedent, shapes the developer's site selection process because developers will need EFSB approval to move forward with its BESS project.

Furthermore, as described by the Clean Energy Industry Partners comments, for generation and storage facilities, the straw proposal proposes to measure a project's distance from existing or planned substations. This would provide developers, who are already motivated to reduce interconnection costs, with a rough proxy for the costs of interconnecting generation and storage facilities; though, developers will only pursue a project in locations where these costs can be sustained. Therefore, this proposal has the potential to lower costs for developers. However, any clean energy generation or storage facility application will have a positive development potential so it is not clear that this type of criteria would meaningfully distinguish projects. While RENEW echoes the Clean Energy Industry Partners that include this factor could help balance other criteria, project developers should be afforded the opportunity to justify a proposed site's development potential on the basis of cost-effectiveness.

Lastly, RENEW agrees with the Clean Energy Industry Partners in advising against explicitly identifying ineligible areas. As described, the Implementing Agencies should not create new substantial restrictions that amend existing law. Moreover, creating new barriers is not beneficial and would constrain permitting. This runs counter to the intent of the Climate Act.

VII. Cumulative Impact Analysis Straw Proposal

RENEW endorses an equitable and just transition to clean energy and reducing impacts from historic energy burdens for communities in the Commonwealth. Implementing well-structured impact analysis provides developers with a more effective tool to assess community impacts of clean energy facilities. Both MassDEP and Massachusetts Environmental Policy Act office have developed tools for conducting cumulative impact analysis, including environmental justice attributes, as part of air permitting. The Implementing Agencies should coordinate with both agencies to streamline the review of existing environmental conditions. Adopting different methodologies to evaluate cumulative impacts will add unnecessary confusion and uncertainty while increasing risks for duplicative filings.

Flexibility in analysis criteria and scoring methodology is important to ensure that the analysis is sufficient and effective for each community and project. Overly prescriptive impact analysis could impair the effectiveness of the analysis and create artificial barriers that undermine the clean energy transition and exclude communities from its benefits. Incorporation of any indicator or stressor will be greatly influenced by both the community and the proposed project, as such, guidelines for developing the cumulative impact analysis should require indicators or stressors that are not applicable for a given community or project. Importantly, any indicators selected should be thoroughly scrutinized to ensure that there is no double counting of impacts. This would be counter to the intent of the Climate Act.

Additionally, this process fails to consider certain decisions regarding elements of large clean energy generation infrastructure siting that occur at early stages of project development, including the location of the point of interconnection. This includes any interconnection request

processes or technical studies conducted by ISO-NE, which often occurs in tandem with the permitting process.

A. Positive Attributes of Clean Energy Infrastructure

The impact analysis should consider where there are positive attributes to developing clean energy facilities in a community, not explicitly the negative attributes. Further, the impact analysis should not just be surface-level, one-size-fits-all that solely considers the stressor. It instead should encourage a deeper, project-specific analysis that considers whether and how a developer has proposed solutions that effectively mitigate a stressor and the impact/risk of the project on a specific area of concern. By taking a wholistic analysis is will provide a more accurate assessment for some projects. Clean energy facilities have positive impacts on communities, including reducing air emissions, creating local economic development opportunities, and providing for a reliable and resilient electric grid.

Further, the cumulative impact analysis should be designed for the explicit purpose of providing relevant information that assesses community burdens from proposed clean energy facilities in conjunction with impacts from existing burdens. Any requirement that creates lengthy reports that document unnecessary information will be overly burdensome and may increase complexity for stakeholders and the EFSB to make meaningful conclusions, thereby slowing progress towards emissions reductions and climate goals.

With respect to the EFSB's proposed specific geographic area ("SGA"), RENEW believes that the proposed radius is larger than necessary for energy storage facilities. RENEW recommends that the proposed SGA for energy storage facility fire evacuation zones to be an initial distance of 150 feet in radius.

VIII. Conclusion

RENEW appreciates the opportunity to offer these comments. We stand ready to contribute to the development of the regulation to implement the Climate Act, including participating in working groups and technical sessions, to ensure an efficient and responsible siting process that enables Massachusetts to stay on track to attain its climate goals and keep energy affordable.

Sincerely,

Nathan Raike
State & Local Affairs Manager