

October 17, 2025

Rebecca Tepper, Secretary
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, 9th Floor,
Boston, MA 02114

Comments on the Draft Guidance on Community Benefits Plans/Agreements

Dear Secretary Tepper,

Thank you for the opportunity to comment on the draft Guidance on Community Benefits Plans/Agreements (CBP/A Guidance). We greatly appreciate the enormous effort that the Executive Office of Environmental Justice and Equity ("OEJE") is devoting to the implementation of the 2024 Climate Act. As members of the Commission on Clean Energy Infrastructure Siting and Permitting, New Leaf and BlueWave fully support the aim of frontloading community engagement, and agree that earlier and more robust consultation with communities can greatly facilitate mutually beneficial permitting decisions.

Applicability

We are unclear as to the applicability of the CBP/A Guidance. 225 CMR 29, DOER's proposed rules for Small Clean Energy Facility Permitting, includes definitions for CBPs and CBAs, but does not substantively reference them beyond noting that a "Community Benefits Plan *if applicable*" should be included in a Consolidated Local Permit Application (emphasis added). The CBP/A Guidance does not include definitive statements of applicability; it makes a number of statements that OEJE would prefer that CBPs be required for all applications, but does not in fact require them:

- Page 2: "As part of the *required* meaningful engagement, CIA, and mitigation hierarchy (avoid, minimize, and mitigate), project applicants *should work* with communities to develop CBPs or CBAs to support this process.
- Page 4: "The outline below reflects *potential incorporation* of CBPs in the EFSB and municipalities' siting and permitting processes...In alignment with the EFSB and DOER's pre-filing engagement requirements, project applicants should demonstrate meaningful engagement with residents, the municipalities, and CBOs. As part of this process, *OEJE recommends* that applicants develop and discuss a draft CBP with community members during the pre-filing stage...Once refined through this engagement, the draft CBP should be submitted with the project application to the EFSB and relevant municipalities."
- Page 5: "While final project approval is not contingent on having a CBA, applicants are strongly encouraged to have a finalized CBP – and, when feasible, a conditional CBA – in place before the end of the review process. A conditional CBA should be structured to

take effect only upon final project approval by the EFSB or the relevant local government representative.”

- Page 13: “It is *OEJE’s recommendation* that a *draft CBP* be a required component of a project’s application to a municipality and EFSB.”

This ambiguity, especially for Small Clean Energy facilities, is quite problematic. **In the absence of clear guidance on applicability, many local permitting authorities and stakeholders may interpret this guidance as license to require a level of process and community benefits that is disproportionate to the size and impact of Small Clean Energy facilities.**

Similarly, while we agree with the intent of the CBP/A Guidance, we are concerned that it does not make a clear distinction about the levels of engagement and benefits that are appropriate for projects of different scales and levels of impact. The Guidance is generally drafted in the context of a large project that is having a significant impact, for which robust community consultation and provision of benefits is appropriate. However, the Guidance does not make clear that a different set of standards would apply to, for example, a one megawatt solar project located outside of a Burdened Area, with medium or low Site Suitability Scores. While the Guidance does not state that anything it details is explicitly required for projects of any size or level of impact, this ambiguity can lead to different expectations among different readers.

By detailing best practices for the most robust CBP/As while mostly not explaining how those best practices might be scalable for smaller and/or less impactful projects, the Guidance is likely to create expectations among stakeholders for projects of all scales that they are entitled to the highest level of CBP/A. This is at odds with the purpose of the Climate Act, which is to improve the community engagement process, *while streamlining and facilitating* permitting of clean energy facilities. Section VI very helpfully breaks down specific examples of potential benefits commitments into different sections for large vs. small facilities. However, none of the other sections of the document relating to the process similarly distinguish between small and large projects.

We urge OEJE to clarify that CBP/As are encouraged, but not required, for projects of any size, as neither the DOER nor the EFSB regulations explicitly require CBP/As. We further urge OEJE to ensure that the Guidance appropriately distinguishes in all sections, not just the examples of benefits, between projects of large vs. small scale and of significant vs. minimal impact.

Key Stakeholders

As we noted in our joint comments on 225 CMR 29, the definition of Key Stakeholders, which is the same in the CBP/A Guidance, is overly inclusive, vague, and difficult to implement. 225 CMR 29 gives Key Stakeholders specific rights, and gives Applicants specific responsibilities with respect to Key Stakeholders. In both 225 CMR 29 and the CBP/A Guidance, we urge DOER/OEJE to reserve the term “Key Stakeholders” for a clearly definable subset of stakeholders, limited to municipal decisionmakers and others “substantially and specifically affected” by a proposed facility. The potentially interested parties listed under the heading of

“Key Stakeholders” in the CBP/A Guidance are more appropriately termed simply “Stakeholders,” with specific rights and responsibilities reserved for a smaller subset of “Key Stakeholders” that can be unambiguously identified.

Alternative Sites

Section I.D.i. references “preferred route or site option,” while Section III.B. Step 4 also includes “site selection” among the items that community feedback should inform. Clean generation and storage stakeholders have raised numerous times during the permitting reform process to date that the concept of “alternative sites” is not appropriate for clean generation and storage projects. If there is a second site that is potentially viable, that site is a separate project, not an alternative to a prior site. With a need for gigawatts of new solar and storage deployment to achieve our climate mandates, each site should be evaluated on its own merits and not evaluated in the context of alternatives. We respectfully request once again that all regulations and guidance be clear that any mention of alternative sites is applicable only to clean transmission and generation facilities (for which there is a specific need that could be met by multiple alternative sites or routes).

In Section I.D.i., which states “In addition to gathering feedback on the preferred route or site option, applicants should work with Key Stakeholders to identify local needs, concerns, and priorities that can inform the development of proposed benefits,” we recommend simply deleting the first phrase entirely, or else clarifying that it refers only to clean transmission and generation facilities. In Section III.B. Step 4, which states “Demonstrate how feedback informed site selection,” we recommend adding “if applicable”, or specifically stating that the site selection item is only applicable to clean transmission and distribution facilities.

New Leaf and BlueWave greatly appreciate the effort that OEJE has put into developing this Guidance, and we appreciate the opportunity to provide these comments. Please do not hesitate to reach out with any questions or to discuss these issues further. We look forward to continued cooperative efforts to improve the community engagement process and outcomes while streamlining and facilitating the deployment of clean energy.

Sincerely,

/s/ Sean Burke

Sean Burke

Director of Policy

sburke@bluewave.energy

/s/ Jessica Robertson

Jessica Robertson

Director of Policy & Business Development, New England

New Leaf Energy

jrobertson@newleafenergy.com