

An Introduction to Maine's Energy Siting Long-Term Contracting Considerations

Presented to:

***VT Energy Generation
Siting Policy Commission***

Meeting #2 – Learning from Other States
(Dec 19, 2012)



General Description & Context for Energy Generation Siting Process

- Review thresholds:
 - Site Law/Wind Energy Act triggered at 3 acres of impervious area (wind)($<100\text{kW}$ exempt); Maine Waterway Development and Conservation Act triggered for any level of hydropower generation
 - Primary authority for siting: Dept. of Environmental Protection
 - Are there opt-in options? No
- Total Overall # Energy Generation Sites: 14 wind, 115 hydro, 1 tidal, 23 biomass
- Total MW installed: $\sim 2000\text{MW}$ (397 wind, 762 hydro, 768 biomass, 0.6 tidal)
- Energy Generation projects/applications considered (average/year): 2-6
- # of projects/applications approved and denied (average/year or most recent year): $> 95\%$ approval overall

Long-Term Contracting Approval Practices #1

- Authorizing agency/members: Maine PUC
 - Enabling statute: 35-A M.R.S.A. 3210-C
- Staffing of Long-Term Contracting process:
 - Three technical analysts, two attorneys at Maine PUC
- Coordination of state-level permit issuance with other agencies: MPUC long-term contracting process is independent of other state agency reviews.
- Timeline for review/deadline or decision: There is no deadline for review and decision.

Long-Term Contracting Approval Practices #2

- Substantive Criteria & Standards overview:
 - Primary standard: Benefits to ratepayers through lower rates, reduced volatility, reduced transmission costs, increased reliability.
 - Priority given to energy efficiency and new renewable resources.
- Appeals process/authority: Maine's Supreme Judicial Court
- Any expedited processes for certain projects?
 - Process can be flexible if there is a need to expedite.

Public Participation/Representation mechanism

- How do you capture public opinion/evidence as part of the deliberative process: Interested persons may comment on any application before DEP and request a public hearing (public hearings not typically held for wind projects)
 - Party status: any interested person
 - At what stage(s) of the process: Any time prior to DEP permit issuance (within reason).
- What support is provided? Public can submit written, electronic or verbal comments. DEP holds two public comment sessions on wind projects with DEP Commissioner or Deputy Commissioner attending the second session.
- How do you deal with costs of participation (for experts, for example)? Actual DEP costs paid by applicant via 'special fee' project billing.
- Role of Town or Regional Planning Commissions (Maine has no RPC's)
 - statutory/decision? Local permitting – some towns have local wind ordinances.
 - Automatic party? No, but towns can comment on applications.

Alternative Dispute Mechanism

- Does it exist (formally or informally)? Informal discussions with interested persons, applicants and DEP project manager can sometimes resolve issues. Formal appeals go to the Board of Environmental Protection or Maine Superior Court.
- Who is responsible? N/A
- At what point in the process is it available? Comments received until permit issuance (within reason). Any DEP decision may be appealed.
- Who pays? Comment process is informal. Appeal costs are shared.
- If yes, how often utilized? Very. All wind energy licenses issued to date have been appealed.
- Does it work? (pros & cons): Sometimes, depending on the reasonableness of the parties and the level of subjectivity in the issue.

Adequate protection of lands, environmental & cultural resources

- Which environmental permits are required?
 - Site Law, Natural Resource Protection Act, Stormwater permits with considerations under the Wind Energy Act; solely under the MWDCA for hydro. Wind projects in the Unorganized Territory must be certified by the Land Use Planning Commission as compatible with zoning prior to DEP licensing.
- Are they a pre-requisite or subsequent condition to granting of overall siting approval? All permits must be issued prior to construction.
- How is cumulative impact of multiple projects measured? Cumulative scenic impacts are being considered as a review criterion for future wind projects. No current standards exist.
- Do permits adequately address all environmental concerns? Yes, under current laws.

Monitoring Compliance

- What is the system for monitoring compliance with permit conditions?
 - Compliance testing by licensee (noise, bird & bat mortality, mitigation). Many wind licensees have toll free phone numbers for accepting noise complaints.
 - Including impacts of approved and built facilities? Yes, if monitoring is included in permit conditions.
 - During construction as well as post construction? Yes, third-party inspectors monitor stormwater & erosion control during construction, post construction monitoring includes noise and bird/bat mortality.
 - For what time period? Varies from one year up to life of project.
 - Staffing or budget? All monitoring paid for by licensee via 'special fee' or directly to licensee's contractor.

Strengths and Weaknesses

- Strengths – Approval consolidated in one agency; quantitative and qualitative criteria for noise, shadow flicker, safety, stormwater, wetland impacts, wildlife habitat & vernal pools.
- Weaknesses – Subjective criteria for scenic impacts.
- If there were anything you would change, what would it be? Better definition/quantification of scenic impacts.
- Based on experience, key recommendations for others: Encourage openness by applicants, multiple public outreach/education efforts.