



WHAT YOU NEED TO KNOW ABOUT NEW YORK STATE'S ARTICLE 10 LAW

Intro

New York State's Article 10 law regulates the construction and operation of power generation facilities that have a capacity of 25 megawatts (MW) or more. (A 25 MW facility can power approximately 10,000 homes.)

The Board on Electric Generation Siting and the Environment (Siting Board) reviews applications for proposed facilities. It can issue a certificate authorizing the construction and operation of a facility, or deny the application. This board contains five permanent members and two members of the public – one appointed by the President Pro Tem of the Senate and one by the Speaker of the Assembly.

The Article 10 process is a one-stop shop for environmental review, replacing nearly all other state and local permitting reviews, including State Environmental Quality Review (SEQR).

Steps in the Article 10 Process

This is split into two distinct phases: pre-application and formal application. During each phase, eligible parties can apply for “intervenor funding” that will be provided by the developer. It can be used for qualifying expenses that enhance the party's ability to participate in the process, including legal and consultant fees.

Pre-Application Phase

1. Developers who apply to construct and operate an electric generating facility through Article 10 must prepare and implement a **public involvement program (PIP)** plan. This program is intended to introduce the project, identify stakeholders and encourage the public to participate in the entire review process.
2. 150 days or more after the filing of the PIP plan, the developer submits a **preliminary scoping statement (PSS)** to inform the Siting Board, other public agencies and the community about the project. This written document includes a description of the proposed facility and its environmental setting, proposed studies to evaluate potential environmental and health impacts, proposed mitigation measures and reasonable alternatives to the project. There is a 21-day period for public comment on the PSS, after which the developer has 21 days to reply to any submitted comments.
3. Within 60 days of the PSS filing, the developer may decide to initiate a voluntary **stipulations process**. During this confidential process, the developer and any stakeholders who decide to participate can enter into agreements on the type and extent of studies to be conducted in support of the formal application. These agreements reduce the number of potential issues raised during the formal application process. Before the execution of a proposed stipulation, the public and other parties will be notified and will have the opportunity to submit comments.

SITING BOARD



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Conservation (DEC)
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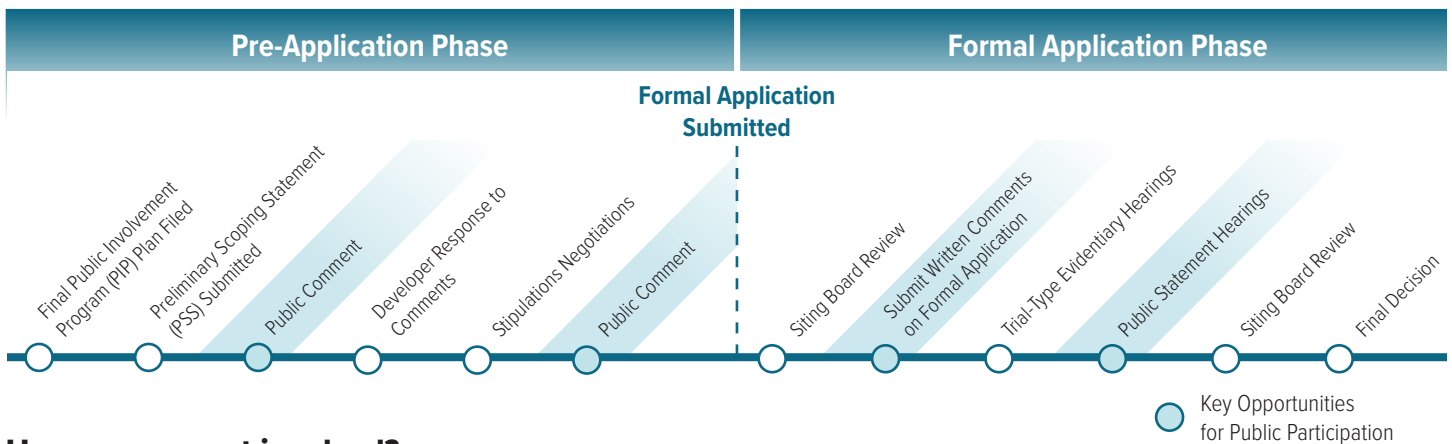
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Energy Research
and Development
Authority (NYSERDA)
Chair



Ad Hoc Members
of the Public from
Host Community

Formal Application Phase

4. In the second phase of the Article 10 process, the developer submits a **formal application** to the Siting Board. It follows the outline provided by the PSS, but is far more detailed – often thousands of pages in length. The Siting Board is tasked with deeming an application “complete” by making sure that it includes everything that was agreed upon during the stipulations process.
5. Involvement in the Formal Application phase
 - a. The developer and relevant state agencies are automatically deemed formal participants, or “parties,” to the Article 10 proceedings. Others – including the host municipality, environmental nonprofits and individual residents of an affected municipality – can file a request to be a party. A notice of intent to be a party must be filed with the Siting Board within 45 days of the formal application’s submission date.
 - b. Trial-type evidentiary hearings are held. Formal parties have the right to be represented by counsel, to present the testimony of witnesses, to cross-examine witnesses under oath and to present documentary evidence.
 - c. In addition to the formal evidentiary hearings, public statement hearings are held to obtain input from the general public. There is also an opportunity for the public to submit written comments to the Siting Board.
6. The Siting Board must make a **final decision** on an application within 12 months from the date an application is deemed complete. It can grant a certificate to the developer, grant a certificate subject to modifications and/or conditions, or deny the application.



How can you get involved?

- Check out projects near you at on.ny.gov/2QnWBdm and submit comments to the Siting Board by clicking on the case number, then the “Post Comments” button.
 - Current Article 10 proceedings underway in the Hudson Valley include:
 - Hecate Green Solar: on.ny.gov/2xOKCOB
 - Flint Mine Solar: on.ny.gov/2NRJNiw
 - Danskammer Repowering: on.ny.gov/32IBiiR
- Attend public statement hearings or submit a written statement.
- Contact your elected officials to make your voice heard about projects in your community. Find your Hudson Valley representatives in the state Legislature and U.S. Congress on the easy-to-view maps at bit.ly/2lhzkqO.
- Join Scenic Hudson’s mailing list to get updates about opportunities to weigh in on projects. Visit our website at scenichudson.org and scroll down to input your information in the “Stay Informed” fillable form.

Resources

- NYSERDA Article 10 Fact Sheet: on.ny.gov/2JJawbq
- Siting Board Website: on.ny.gov/2yqy4uD
- Article 10 FAQ: on.ny.gov/2ZcsGsJ

About Scenic Hudson

Scenic Hudson preserves land and farms and creates parks that connect people with the inspirational power of the Hudson River, while fighting threats to the river and natural resources that are the foundation of the valley’s prosperity. scenichudson.org