
STATE OF NEW YORK

PUBLIC SERVICE COMMISSION

Case 24-M-0433 – In the Matter of the Rules and Regulations for the Environmental Review, Permitting, and Siting in this State of Major Renewable Energy Facilities and Major Electric Transmission Facilities Under the Renewable Action Through Project Interconnection and Deployment Act.

COMMENTS OF AES CLEAN ENERGY, LLC

ON

NEW PART 1100 (GENERAL PROCEDURES), PART 1101 (MAJOR RENEWABLE ENERGY FACILITY SITING), AND PART 1102 (MAJOR ELECTRIC TRANSMISSION FACILITY SITING)

December 8, 2025

I. Introduction

AES Clean Energy Development, LLC (“AES”), submits these comments in response to the Office of Renewable Energy Siting and Electric Transmission’s (“ORES”) revised regulations for the environmental review, permitting, and siting in New York of major renewable energy facilities and major electric transmission facilities under the Renewable Action Through Project Interconnection and Deployment Act (“RAPID Act”) filed on October 22, 2025. AES will comment on Chapter XI, Title 16 of NYCRR Part 1100 General Procedures REVISED 2025-20-22 (“Revised General Procedures”)¹ and Chapter XI, Title 16 of NYCRR Part 1101 Major Renewable Energy Facility Siting REVISED 2025-20-22 (“Revised Major Renewable Energy Facility Siting”).²

AES appreciates ORES’s careful consideration of stakeholder comments and key changes to the regulations including extending the permit expiration period from three to five years and positive wetlands changes. AES looks forward to our continuing engagement. AES will provide a few key comments and suggestions for ORES to consider when finalizing the General Procedures and the Major Renewable Energy Facility Siting regulations.

II. AES Clean Energy

AES was founded in 1981 and is a U.S.-based Fortune 500 global energy company with headquarters in Arlington, Virginia and offices in many locations in the U.S., including New York City. Across the country, AES owns and operates a portfolio of more than 10.6 GW of renewable energy projects including more than 600 utility-scale and community solar, wind, energy storage, and hybrid projects across 29 states. AES is a committed, solutions-oriented climate leader. AES has spent more than two decades building projects in New York as one of the state’s leading developers. AES’ development pipeline in New York includes more than 2.9 GW of clean energy projects including utility-scale solar, wind, community solar, and energy storage. AES owns and operates one of the largest renewable energy portfolios in New York with 67 projects representing more than 850 MW of energy resources including Valcour Wind, a portfolio of 612 MW of operating wind projects.

¹ Office of Renewable Energy Siting and Electric Transmission. [Chapter XI, Title 16 of NYCRR Part 1100 General Procedures REVISED](#) (“Revised General Procedures”), filed October 22, 2025. Case 24-M-0433.

² Office of Renewable Energy Siting and Electric Transmission. [Chapter XI, Title 16 of NYCRR Part 1101 Major Renewable Energy Facility Siting REVISED](#) (“Major Renewable Energy Facility Siting”), filed October 22, 2025. Case 24-M-0433.



AES' experience with the ORES Article VIII process is unparalleled. We respectfully suggest that the comments below be considered by ORES and the PSC in finalizing the regulations.

III. Revised General Procedures

a. Section 1100-1.2. Definitions (ay) Major Amendment

In the Revised General Procedure, “major amendment”³ now includes amendments to applications or draft permit conditions. The definition now includes existing permits because “major modification” from the definition was deleted. The concept of “modification” has been eliminated for “major or minor amendments,” even if the modification occurs before or after a permit is issued. The new “major amendment” definition establishes the standard that if any change to an existing permit requires local law waivers, it will be considered a major amendment unless the permittee or certificate holder has agreements from the municipality consenting to the waiver.

AES suggests that ORES revise the language to account for changes that may technically require new waivers, but do not result in any significant or new environmental impacts. For example, new requests could involve slight changes to waiver requests considered by ORES in the Siting Permit, but these should not be considered a “major amendment,” without impacts not previously addressed.

b. Section 1100-1.3. Pre-application procedures. (a)(10) Notice of adoption of new substantive local law provisions

In the Revised General Procedure, (a)(10) Notice of adoption of new substantive local law provisions,⁴ the municipality is required to either at or any time after the pre-app meeting, but no later than 5 days after receiving a 60-day NOI to file, to inform the applicant of any pending new substantive local law provisions that would be applicable to the construction, operation, maintenance, and decommissioning, as well as the date of enactment by the municipality. This could benefit applicants by making sure they are aware of any new potential laws but does not prevent municipalities from passing laws later in the process. AES suggests revising the term “pending” local law to a clearer reference, such as “final and enacted local law”. AES suggests that the law would need to be in effect when the application is filed, to ensure the text to be applied to the Facility or waived is clear and not subject to future changes from a draft to a final law.

³ Revised General Procedure, at p. 9.

⁴ Revised General Procedure, at p. 19.

IV. Revised Major Renewable Energy Facility Siting

a. Section 1101-1.1. Pre-application requirements. (3) Archaeological resources consultation.

Under the Archaeological resources consultation of the pre-application requirements⁵, the applicant shall submit the results of the Phase IB study including a proposed Site Avoidance Plan to ORES, SHPO, and each (changed from any) Indigenous Nation. Within 60 days of the applicant's submittal, ORES in consultation with SHPO shall inform the applicant as to whether a Phase II site evaluation study will be required. The application cannot be filed less than 60 days after receiving the above determination from ORES whether a Phase II is necessary. So, if ORES provides the assessment of the Phase IB after the 60-day NOI is filed, it will likely delay the filing of the Application.

AES suggests that ORES eliminate the requirement that projects would need to wait 60 days. Particularly when a project is not required to conduct a Phase II, as currently written, this requirement would delay the filing of applications for no benefit to the process.

b. Section 1101-2.7. Exhibit 7: Noise and Vibration

In the recent revisions in Exhibit 7, a cumulative noise impact was added, "cumulative noise impacts obtained as specified in subdivision (c) of this section shall not exceed any non-cumulative design goals."⁶ AES understands that this reading means that the noise standards of 45dBA for non-participating and 55dBA for participating projects will apply to the cumulative assessment as well as the non-cumulative. The previous version only required reports on cumulative impacts, there were no associated standards.

AES does not believe this standard will be reasonable to meet, given the challenges in modeling any noise mitigation at neighboring facilities with a different owner. AES suggests that ORES maintain the previous draft version of Exhibit 7.

⁵ Revised Major Renewable Energy Facility Siting, at p. 7.

⁶ Revised Major Renewable Energy Facility Siting, at p. 33.

c. Section 1101-2.18. Exhibit 18: Socioeconomic Effects.

Exhibit 18: Socioeconomic Effects⁷ includes the good faith effort discussion from the pre-application phase. Under the revised regulations, this exhibit now includes a requirement that “host community benefits shall be in a form and amount acceptable to the office.”⁸

AES agrees on the emphasis on host community actions but suggests that the developer and the host community agreements remain between those two parties. The host communities and developers follow ORES regulations and additional ORES oversight, and administrative steps are not necessary and may lead to delays.

d. Section 1101-3.4. Facility construction and maintenance (a) Construction Hours

The Revised Major Renewable Energy Facility Siting regulations reduced the construction window to 7AM to 7PM from 7 AM – 8 PM Monday-Saturday. The revisions also define Sundays, State, and Federal Holidays and other dates as “Extended Hours” which work may be allowed but only after requested from the Office and approved.

AES suggests that ORES revert to the previous construction hours as this reduction will delay projects and add unnecessary administrative tasks for ORES and developers requesting a waiver for additional hours.

e. T&E Species (x) Threatened and endangered species.

Under the regulatory revisions, ORES added a new requirement to conduct visual inspection of construction area 14 days prior to construction to determine if any active bald eagle nests are present.⁹ This adds a new unanticipated discovery requirement that if any NYS T&E species are discovered during construction, the permittee must secure the immediate area to the extent they have property rights and cease construction unless ORES authorizes recommencement of activities.

AES suggests this inspection be tied to pre application work instead because waiting until 14 days prior to construction. Such a requirement would create issues for EPC and significantly increase EPC costs, because all parties will need to account for a nest, if found.

⁷ Revised Major Renewable Energy Facility Siting, at p. 78.

⁸ Revised Major Renewable Energy Facility Siting, (I) at p. 79.

⁹ Revised Major Renewable Energy Facility Siting, (6)(i) at p. 118-119.

Also, AES strongly suggests that rather than have a mandatory obligation for all projects, without any explanation of implication of finding a nest, that ORES consider the need for this on a project-by-project basis. In this way, ORES could consider the history of the project, the prior avian survey work and data and determine if such a nest survey is necessary. Even in that case, ORES should request such a survey not be conducted in such a manner or during a time that an unanticipated discovery would result in design changes to a project so close in time to construction.

V. Conclusion

AES appreciates ORES' thoughtful edits in its revised regulations. AES requests swift consideration of the remaining comments raised and prompt finalization of the regulations to continue to support the state's clean energy goals.