

## Horseshoe Solar: What is Article 10 and How to Get Involved

NYS Department of Public Service Case 18-F-0633

### Permitting Solar Energy in New York

New York has a state law for authorizing major electric generating facilities called Article 10, which is carried out by the New York State Board of Electric Generation Siting and the Environment (the “Siting Board”). The Article 10 process offers the public many opportunities to share their comments, ideas and expertise about the proposed Horseshoe Solar Facility with both Invenergy LLC (the “applicant”) and the Siting Board ([www.dps.ny.gov/SitingBoard](http://www.dps.ny.gov/SitingBoard)).

### What is Article 10?

Article 10 defines a process for public engagement in permitting large electric generating facilities that:

- Applies to electric generating facilities with 25 megawatt (MW) generating capacity or more, including renewable energy projects.
- Includes environmental and health requirements.
- Provides broad public involvement opportunities throughout the process.
- Makes funds available to local parties and municipalities through *Intervenor Funds* so they can make an effective contribution to the proceedings.

### There are five stages of the Article 10 process, which take 2-3 years to complete:

1. **Pre-Application:** Applicants must file a Public Involvement Program (PIP) Plan summarizing activities to educate, inform and involve the public in the process. The PIP must be filed 150 days before filing a Preliminary Scoping Statement (PSS). Ninety (90) days before filing an Article 10 application, the applicant must file a PSS with the Siting Board. This PSS must also be provided to state and municipal agencies, state and local officials, and local libraries. A



notice summarizing the PSS must also be placed in newspapers. After the PSS is submitted, circulated, publicly noticed, and Intervenor Fund requests have been considered, consultation begins with interested parties on the methodology and scope of impact studies. The public has an opportunity to comment on the PSS, and the applicant is required to respond to the written public comments.

2. **Application:** The project application will be filed with the Siting Board and made available for public inspection at local libraries, which are provided in the PIP. Copies of the application will also be provided to interested parties, and a notice summarizing the application will be published in local newspapers (in this case, the Register Star and the Daily Mail). State legislators in affected districts will also be notified. The application must include, amongst other things:
  - Project description
  - Public involvement activity
  - Facility and community security and safety plans
  - Evaluation of expected environmental/ health impacts, preliminary designs, and consistency with state energy plan and substantive requirements in local codes.
3. **Administrative Hearings:** Within 60 days of receiving a project application, the Chair of the Siting Board determines if it complies with all filing requirements. If so, a date for the public hearing is set. The hearing examiner holds a pre-hearing conference to identify intervenors, award intervenor funds, identify issues for the hearing, and establish a case schedule.

# Invenergy

4. **Siting Board Decision:** The Siting Board must make explicit findings about the nature of the environmental impacts related to construction and operation of the facility and related facilities. Specifically, the Board will, amongst other topics, consider impacts to:

- Statewide electrical capacity
- Ecology, air, ground and surface water, noise, wildlife, and habitat
- Public health and safety
- Cultural, historical, and recreational resources
- Transportation, communication, utilities, etc.

The Siting Board must also determine that the facility is a “beneficial addition or substitute for” generation capacity, that construction and operation are in the public interest, that adverse environmental effects will be minimized or avoided, to the maximum extent practicable and that the project is in compliance with state laws and regulations as well as the substantive requirements of local laws, unless they are determined unreasonably burdensome.

5. **Compliance:** Once the project receives an Article 10 certification, there are three elements of post-certification compliance required:

- *Pre-Construction:* Includes the filing of engineering and design documents for Board approval.
- *DPS On-Site Compliance:* Staff from the Department of Public Service (DPS) will monitor project compliance including periodic site visits after construction begins.
- *Long-Term Compliance:* After construction, a facility’s certificate may require long-term compliance regarding the operation of the facility over its lifetime.

## Intervenor Funds

Intervenor Funds exists to provide for interested local parties or municipalities opportunities to contribute to the proceedings. All projects must pay \$350/MW of generating capacity into the fund, up to \$200,000, during the Pre-Application Stage. In addition, each project

application must be accompanied by a fee of \$1,000/MW of capacity into the fund, up to \$400,000, during the Application Stage. The Presiding Examiner or Secretary of the Siting Board will issue a notice when funds are available, informing the public on how they may apply for a portion of these funds. Funds will be equitably awarded to municipalities and local parties. At least half of the Intervenor Funds must be available for municipalities, with the remainder to local parties to hire expert witnesses, consultants, or lawyers, as determined by the Board.

## For More Information on the Article 10 Process

The State of New York has an office within the DPS, called the “Public Information Coordinator” to assist and advise interested parties and the public on participation in the siting and certification of major electric generating facilities.

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New York State Public Service Commission  
3 Empire State Plaza  
Albany, NY 12223-1350  
Phone: (518) 474-7080

Email: [james.denn@dps.ny.gov](mailto:james.denn@dps.ny.gov)

To provide comments on a case, you may contact the Secretary of the Siting Board:

**Hon. Kathleen H. Burgess**  
*Mail:* New York State Board on Electric Generation Siting and the Environment  
3 Empire State Plaza  
Albany, NY 12223-1350

*Email:* [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

*Call toll-free Opinion Line:* (800) 355-2120

To learn more about the Horseshoe Solar Facility or share comments with the Invenergy LLC project developer:

**Marguerite Wells, Invenergy LLC, 123 South Cayuga St., Suite 201, Ithaca NY 14850**

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