COMMUNITY INFLUENCE IN STREAMLINED SITING REGIMES

Uma Outka & Danielle Stokes [*]

Synopsis: Siting energy infrastructure has long been contentious, but growing local opposition to new energy projects in the U.S. – notably, wind and solar facilities – has drawn nationwide headlines. The legal context for energy siting varies across U.S. states, with local control being a dominant model. Against this backdrop, several states have adopted legislation to facilitate renewable energy siting by adjusting decisional authority between the local and state level.

This article evaluates these reforms at a time marked by change and uncertainty within the energy sector. Bipartisan support for infrastructure permitting reform generally has gained momentum in recent years, often controversially, and new streamlined siting regimes align in certain ways with those efforts. Viewed broadly, streamlined siting is not conceptually new, as streamlined regimes have long been in place for certain infrastructure projects, complete in some instances with eminent domain authority, such as for natural gas pipelines. Although a reversal of political support for clean energy at the federal level has created uncertainty for wind and solar projects in the U.S., many such projects are proceeding at different stages of development at a time when climate change and other geopolitical risks reinforce the benefits of clean energy resources.

Values central to energy justice are hard to reconcile with the urgency of energy transitions. This is certainly true (and nothing new) for expedited fossil energy projects which bring with them localized pollution. By contrast, accelerating renewable energy development and energy justice are aligned in basic ways, but they can still be in tension on both the policy and project scale. Building out clean energy or any new infrastructure quickly can be at odds with deliberative and inclusive local engagement with host communities.

This tension is the central point of interest for this research. As a starting point, we compare recent reforms to support renewable energy development in four states – New York, Illinois, Michigan, and Massachusetts – all of which have, through law, committed to decarbonization as well as the justice dimensions of

* Uma Outka, Professor of Law, University of Kansas School of Law; Danielle Stokes, Associate Professor of Law, University of Richmond School of Law. The authors are grateful for helpful comments on early drafts from participants in the 2025 Law & Rurality Workshop, participants in the Energy and Natural Resources Law Works-in-Progress Session of the Association of American Law Schools (AALS) 2026 conference, Michael Gerrard, Alexandra Klass, and the Energy Law Journal editorial board. John Colard (KU Law '26), Paige Engelage (KU Law '26), and Hayden Fry (Richmond Law '27) provided research assistance. This research was supported in part by the Alfred P. Sloan Foundation through a grant supporting interdisciplinary research on "Just Energy Transitions and Place."

infrastructure siting to varying degrees. We assess whether these reforms can simultaneously advance the timetable for energy development and preserve a meaningfully influential place for community perspectives. Looking to substantive and procedural aspects of these reforms, we also review their early implementation for insight on the efficacy and local perceptions of these measures. Our core question: How well, if at all, have these states preserved space not just for local voices, but for community influence? This analysis has implications for broader debates about local influence in siting new energy infrastructure generally, as new gas and nuclear project proposals are also accelerating across the U.S.

I. INTRODUCTION

Siting energy infrastructure has long been contentious, but growing local opposition to new energy projects in the U.S. has drawn nationwide headlines in recent years, most notably for wind and solar facilities.[1] The legal context for renewable energy siting has always been a bit of a patchwork across the states, with local control being the dominant but not exclusive model, often combined with state authority for select types of facilities or those exceeding size or other

1. *See, e.g.*, Elizabeth Weise & Suhail Bhat, *Across America, Clean Energy Plants are Being Banned Faster than They're Being Built,* USA TODAY (last updated Feb. 6, 2024), https://www.usatoday.com/story/news/investigations/2024/02/04/us-counties-ban-renewable-energy-plants/71841063007/ (reporting that "[a]t least 15% of counties in the US have effectively halted new utility-scale wind, solar, or both" in the form of "outright bans, moratoriums, construction impediments or other conditions that make green energy difficult to build"); *see generally* FEDERICO HOLM & JAMES GOODWIN, COMMUNITIES LEFT BEHIND: HOW LOCAL ORDINANCES CAN OBSTRUCT ENERGY DEMOCRACY AND A JUST TRANSITION (Spencer Green & Brian Gumm eds., 2024).

thresholds.[2] Against this backdrop, several states have recently adopted legislation that constrains local decision making and streamlines energy siting by adjusting decisional authority between the local and state level.

This article evaluates these reforms at a time marked by change and uncertainty within the energy sector. Bipartisan support for infrastructure permitting reform generally has gained momentum in recent years, often controversially, and new streamlined siting regimes can be seen as an extension of those efforts. Viewed broadly, streamlined siting is not conceptually new, as streamlined regimes have long been in place for certain infrastructure projects, complete in some instances with eminent domain authority, such as for natural gas pipelines. At the same time, a reversal of political support for clean energy at the federal level has created near-term uncertainty for wind and solar projects in the U.S. even as renewable energy continues to expand worldwide.[3] Calls for increased attention to achieving just energy transitions and energy justice as the energy sector evolves have centered on inclusive public engagement, self-determination, and local leadership, reminding policymakers of the impacts of energy infrastructure on host communities.[4] These considerations were elevated under the Biden Administration, but then rejected under the Trump Administration; nonetheless, many states recognize justice dimensions of energy development and remain committed to clean energy goals.[5]

Although accelerating renewable energy development and energy justice are aligned in basic ways, they can be in tension at both the policy and project scale. Building out clean energy – or any infrastructure – quickly, can be at odds with deliberative and inclusive local engagement with host communities. The values central to energy justice are hard to reconcile perfectly with the urgency of energy transitions, especially as contexts keep changing. In just the last year, projections for sharply increased electricity demand, largely from data centers, create new siting issues and pressure to streamline new power generation of all kinds, including gas-fired power plants and new nuclear development.

These tensions are the central points of interest for this research, which compares and assesses recent state law reforms changing siting frameworks to accelerate renewable energy siting. We focus on four states – New York, Illinois, Michigan, and Massachusetts – all of which have demonstrated a commitment to climate change mitigation and clean energy development through various law and policies, while also emphasizing community recognition and the justice dimensions of infrastructure siting. We are interested in the ways these reformed siting approaches seek to remove barriers to clean energy development while preserving a substantive role for affected communities. Looking first to

---

2. *See, e.g.*, SHAWN ENTERLINE & ANDREW VALAINIS, REGUL. ASSISTANCE PROJECT, LAWS IN ORDER: AN INVENTORY OF STATE RENEWABLE ENERGY SITING POLICIES 6 (2024) [hereinafter RAP].

3. *See Renewable Energy Progress Tracker*, INT'L ENERGY AGENCY (last updated Dec. 15, 2025), https://www.iea.org/data-and-statistics/data-tools/renewable-energy-progress-tracker.

4. *See infra* Section III.

5. *See States United for Climate Action*, U.S. CLIMATE ALL., https://usclimatealliance.org/ (last visited Jan. 1, 2026) (coalition of states continuing to pursue climate change mitigation strategies aligned with the international Paris Agreement's climate stabilization goal); *see also* MIKE HELBING, UMA OUTKA & HANNAH WISEMAN, ENERGY IN ENVIRONMENTAL JUSTICE ACROSS THE US STATES 8 (2025).

substantive and procedural aspects of these reforms, we also consider their early implementation, media coverage, and related legislative activities that may shed light on the efficacy and local perceptions of these measures. We assess: To what extent do the reforms structurally preserve community influence on project siting decisions?

In what follows, section II offers a primer on states' roles in energy infrastructure siting. It surveys the traditional contours of land use authority across the federal, state, and local levels of government and then turns to the specific context of energy siting. As this section describes, control over siting decisions for utility scale projects exists along a spectrum, with long-standing distinctions based on infrastructure categories. These distinctions lay the groundwork for our comparative analysis of new streamlined regimes that altered the states' decisional structure.

In section III, we address tensions between streamlined siting regimes and community-scale governance, focusing especially on the unique considerations presented for siting reform and energy (and environmental) justice.[6] A central feature of energy justice is integrating community knowledge and experience into decision-making affecting that community. As defined by the Initiative for Energy Justice, the concept of energy justice elevates "the goal of achieving equity in both the social and economic participation in the energy system, while also remediating social, economic, and health burdens on marginalized communities."[7] With these aims, there is an overarching compatibility between increasing zero-carbon electricity generation and energy justice that may be complicated by a shift from local to state authority. Fissures can emerge, however, between conceptions of energy justice, commonly aligned with energy democracy, and local control, as traditionally conceived.

With these tensions in mind, section IV compares new streamlined siting regimes for renewable energy in New York, Illinois, Michigan, and Massachusetts. We chose these states because they combine (1) state level commitments to climate change mitigation – each has adopted a 100% clean energy target; (2) explicit state level recognition of energy or environmental justice as a value; and (3) recent reforms adjusting siting authority between the local and state level for renewable energy projects.[8] Although more can be

---

6. On the interrelationship between energy and environmental justice, see Uma Outka, *Fairness in the Low-Carbon Shift: Learning from Environmental Justice,* 82 BROOK. L. REV. 789 (2017) (connecting energy justice to environmental justice origins); *see also* discussion *infra* Section III.

7. The Initiative for Energy Justice is a scholar- and practitioner-led non-profit organization that works with state and local regulators to integrate community perspectives into energy policy. SHALANDA BAKER, SUBIN DEVAR & SIVA PRAKASH, INITIATIVE FOR ENERGY JUST., THE ENERGY JUSTICE WORKBOOK 5 (2019) (explaining the concept for a general public readership).

8. Although we focus on these four states for the reasons detailed, it is important to emphasize that many more states are pursuing similar goals. As of this writing, 24 states have 100% clean energy targets. *See Guide to 100% Clean Energy States*, CLEAN ENERGY STATES ALL., https://www.cesa.org/projects/100-clean-energy-collaborative/guide/ (last visited Dec. 1, 2025); s*ee also States United for Climate Action*, U.S. CLIMATE ALL., https://usclimatealliance.org (last visited Jan. 1, 2026) ("a bipartisan coalition of 24 governors securing America's net-zero future by advancing state-led, high-impact climate action"); David J. Hess & J.B. Ruhl, *How*

discerned as implementation of these reforms continue over time, this early assessment compares regulatory frameworks and early indicia of how the new regimes are being applied and community response.

The research identifies thematic features across the four state reforms reflecting adjustments to state-local authority that structurally reduce local control but do not foreclose and indeed seem to invite (limited) community influence over siting outcomes.[9] Given the push for streamlined permitting more broadly, this work offers insights with relevance beyond renewable energy for the role of host communities in decisions about other major energy projects as well.

II. PRIMER ON STATES' ROLE IN ENERGY INFRASTRUCTURE SITING

Energy governance is a shared enterprise that spans federal, state, and local authorities, and the allocation of legal authority over siting new energy infrastructure varies across the U.S. based on the type of project, the land use context, and federal and state policy choices, generally set forth by statute.[10] When proposing an energy project, where and how facilities may be located and gain local support presents a complexity of legal and political considerations for project developers. Siting is at the intersection of distinct governance domains and within a regulatory patchwork.[11]

In recent years, policymakers, developers, clean energy advocates, and scholars have increasingly debated infrastructure permitting reform to streamline and accelerate development.[12] "Permitting reform" is often used as a shorthand for advancing utility scale (or other major) projects faster by reducing regulatory process.[13] Permitting for energy facilities traditionally encompasses a suite of regulatory approvals related to land use, environmental, safety, and operational

---

Can Policy Balance the Goals of Transition Acceleration and Justice? Permitting Reform, Large-Scale Renewable Energy, and Host Communities in the United States, 129 ENERGY RSCH. & SOC. SCI., Nov. 2025, at 1, 4-5 (reviewing eight states with accelerated permitting policies).

9. We emphasize actual community *influence* as opposed to unsatisfying forms of public participation that do not shape results and may seem pro forma to residents sharing their perspectives. Shelley Welton, *Decarbonization in Democracy*, 67 UCLA L. REV. 56, 65-66, 89-90 (2020) (distinguishing between citizen engagement - obtaining valuable insights that inform decisionmakers' priorities - and citizen empowerment - having direct control over outcomes - and suggesting that additional research is necessary to determine how enhanced involvement shapes siting processes).

10. *See, e.g.*, Hannah Wiseman, *Expanding Regional Renewable Governance*, 35 HARV. ENV'T L. REV. 477 (2011) (describing the challenges of multi-jurisdictional renewable energy development).

11. These issues have been explored in the literature extensively, including by the authors. *See, e.g.*, Danielle Stokes, *Renewable Energy Federalism*, 106 MINN. L. REV. 1757, 1778 (2022); Uma Outka, *Renewable Energy Siting in the Critical Decade,* 69 KAN. L. REV. 857 (2021); Uma Outka, *The Renewable Energy Footprint,* 30 STAN. ENV'T. L. J. 241 (2011); Uma Outka, *Siting Renewable Energy: Land Use and Regulatory Context,* 37 ECOLOGY L. Q. 1041 (2010). *See also* Hannah J. Wiseman, *Disaggregating Preemption in Energy Law*, 40 HARV. ENV'T. L. REV. 293, 304 (2016); Ashira Pelman Ostrow, *Land Law Federalism*, 61 EMORY L.J. 1397, 1419 (2012).

12. *Compare* J.B. Ruhl & James Salzman, *The Greens' Dilemma: Building Tomorrow's Climate Infrastructure Today*, 73 EMORY L. J. 1 (2023) (addressing competing environmental goals and expected trade-offs), *with* David E. Adelman, *Permitting Reform's False Choice*, 51 ECOLOGY L.Q. 129 (2024) (calling into question assumptions driving calls for permitting reform).

13. *See, e.g., NGA Letter On Energy Permitting Priorities*, NAT'L GOVERNORS ASS'N (Oct. 28, 2025), https://www.nga.org/advocacy-communications/letters-nga/nga-letter-on-energy-permitting-priorities/.

standards. As the Regulatory Assistance Project explains it in simple terms, "[s]iting and permitting…describe[s] both the decision-making processes themselves (siting) and their outcome (a permit or permits)."[14] Siting that directly affects land use – selection and approval of the physical location and configuration of a project – together with procedural frameworks for developing and applying them, are the focus here.

This section provides a brief overview of the legal landscape for energy siting in the U.S., which is the backdrop for our selection and study of the new state regimes focused on renewables detailed in section IV. This section first describes the division of energy siting authority across governance scales, underscoring the role of state and local regulation in energy development. It then provides an overview of the current landscape for energy siting with a specific focus on the rapid regulatory changes that are shifting the dominant model of local decision-making to streamlined state-level siting processes in some states.

A. Jurisdictional Limits and the Scope of Siting Authority

Scholars have long debated which level of government is best suited to regulate energy land use given the interstate nature of the electric grid and the public policy goals of energy regulation, from reliability and affordability to decarbonization.[15] Proponents of centralized federal or regional governance emphasize the importance of meeting national energy demands and climate objectives, while others stress the need to preserve local property interests, land use expertise, and accountability to affected communities.[16]

The legal source of general state and local land use authority can be traced to the Tenth Amendment to the U.S. Constitution, which provides "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."[17] The Congress has generally refrained from disturbing states' traditional primacy over land use.[18] States, in turn, have commonly delegated general authority over land use to localities.[19] Through this delegation, local governments are commonly empowered to make land use and zoning decisions, often including for energy facilities proposed to be sited within their jurisdictional boundaries. States may

14. RAP, *supra* note 2, at 5.

15. *See, e.g.*, Alexandra B. Klass, *The Electric Grid at a Crossroads: A Regional Approach to Siting Transmission Lines*, 48 U.C. DAVIS L. REV. 1895 (2015); Hari M. Osofsky & Hannah J. Wiseman, *Dynamic Energy Federalism*, 72 MD. L. REV. 773 (2013); Benjamin K. Sovacool, *The Best of Both Worlds: Environmental Federalism and the Need for Federal Action on Renewable Energy and Climate Change*, 27 STAN. ENV'T L.J. 397 (2008).

16. *See, e.g.*, Sarah Fox, *Home Rule in an Era of Local Environmental Innovation*, 44 ECOLOGY L. Q. 575 (2017); Hari M. Osofsky & Janet Koven Levit, *The Scale of Networks?: Local Climate Change Coalitions*, 8 CHI. J. INT'L L. 409 (2008).

17. U.S. CONST. amend. X; Nat'l Fed'n of Indep. Bus. v. Sebelius, 567 U.S. 519, 535 (2012) ("state governments do not need constitutional authorization to act… refer[ing] to this general power of governing… as the 'police power.'").

18. *See, e.g.*, John R. Nolon, *Historical Overview of the American Land Use System: A Diagnostic Approach to Evaluating Governmental Land Use Control,* 23 PACE ENV'T L. REV. (SPECIAL EDITION) 821, 827 (2006) (describing provisions of federal environmental statutes clarifying state rights).

19. *Id*. at 829-34.

assert a more nuanced role in the energy siting process, however, either by co-regulating alongside or preempting local authority for certain projects.[20]

The inquiry into a locality's scope of authority is often multifaceted and related to its designation as a Home Rule or Dillon's Rule jurisdiction. In "Home Rule" states, localities have broad governance authority and may enact ordinances without the legislature's approval unless preempted. Whether authorized by constitution or statute, states generally can preempt local laws and policies where policy conflicts arise.[21] The majority of states follow the "Home Rule."[22] A minority of states follow "Dillon's Rule," which limits the contours of local authority to powers (1) granted expressly by the state, (2) necessarily implied or incident to express powers, or (3) "absolutely essential to the declared objects and purposes" of the locality.[23] While these designations are relevant to state-local governance writ-large, the implication for energy siting is that in Home Rule states, localities can advance energy development goals via permissive or prohibitive zoning ordinances and land use policies, absent preemption by the state. For example, in Kansas, a Home Rule state, local governments are preempted in the siting of nuclear power plants and transmission lines, but no such limits apply to siting wind and solar projects.[24] By contrast, in Dillon's Rule states, the state must grant the locality this authority directly. For example, in Virginia, a Dillon's Rule state, the Virginia Code grants "host localities" specific authority to confer with consultants, negotiate siting agreements, and sponsor public meetings for solar energy and energy storage projects.[25] This structure can set the tone for whether and how a locality responds to changes in siting processes.

Streamlined siting at the state level is one approach to permitting reform that presents both challenges and opportunities. On the one hand, streamlining may advance a state's energy policy agenda.[26] It supports development by reducing costs and increasing efficiency with defined timelines and clear criteria for

---

20. The federal government has siting authority over energy infrastructure on federal lands within a state. Federal lands are generally managed by the Department of the Interior, Bureau of Land Management. Under the current administration, siting for renewable projects has halted on federal lands, but other energy siting continues. *See Energy and Minerals*, U.S. DEP'T OF THE INTERIOR: BUREAU OF LAND MGMT., https://www.blm.gov/programs/energy-and-minerals (last visited Dec. 1, 2025).

21. For more on intrastate preemption, generally, see Paul Diller, *Intrastate Preemption*, 87 B.U. L. REV. 1113 (2007) (tracing the historical emergence of local governments); and in the energy context, see Uma Outka, *Intrastate Preemption in the Shifting Energy Sector,* 86 COLO. L. REV. 927 (2015) (explaining differences between federal-state preemption and state-local preemption, with a focus on applications to wind and solar development at the local scale).

22. Diller, *supra* note 21, at 1126.

23. *See* John R. Nolon, *Death of Dillon's Rule: Local Autonomy to Control Land Use,* 36 J. LAND USE & ENV'T L. 7, 16 (2020) (state-by-state research showing significance of Dillon's Rule has been diminishing over time as it relates to local land use authority).

24. *See* KAN. CONST. art. 12, § 5 (granting Kansas cities home rule powers, with somewhat different treatment for counties); KAN. STAT. ANN. § 12-741 (West 2026); KAN. STAT. ANN. § 66-1,158 (West 2026); KAN. STAT. ANN. § 66-1,177 (West 2026) (retaining state authority over siting for certain energy infrastructure).

25. VA. CODE ANN. § 15.2-2316.8 (West 2026).

26. Anika Singh Lemar, *The Role of States in Liberalizing Land Use Regulations*, 97 N.C. L. REV. 293, 302 (2019) (describing states' willingness to preempt local land use decisions that undermine state interests).

approval. At the same time, streamlining may also shift decision-making authority to a higher level of governance, reducing autonomy for local communities.

B. Governance Scales for Energy Siting

Energy infrastructure siting can affect land and the surrounding community in wide-ranging ways, depending on the type of facility in question, from physical footprint to air and water harms, to aesthetic impacts. Federal, state, and local frameworks reflect a multifaceted regulatory landscape that shapes infrastructure development.

1. Limited Federal Role in Energy Siting

Although most energy siting decisions occur at the state and local levels, this section very briefly describes the backdrop of specific but limited areas of federal involvement with energy siting. The Federal Energy Regulatory Commission (FERC), for example, regulates the interstate transmission of oil, natural gas, and electricity,[27] with siting authority over interstate natural gas pipelines[28] and liquified natural gas (LNG) facilities,[29] as well as some authority over hydropower projects[30] and more limited authority over transmission line siting.[31] FERC has traditionally considered environmental, cultural, geological, land use, and socioeconomic impacts in the exercise of its siting authority.[32]

We note these limited but substantial areas to underscore the fact that streamlined siting is not conceptually new. As early as the Natural Gas Act of 1938 (NGA), the Federal Power Commission, FERC's predecessor, was granted plenary authority to site interstate natural gas pipelines and associated infrastructure.[33] FERC is authorized to grant a certificate of public convenience and necessity for proposed pipelines that it deems are within the public interest.[34] Certificate holders are then authorized to exercise the right of eminent domain if

---

27. *See* 16 U.S.C. § 824 (2015) (federal regulation of electric energy); 15 U.S.C. § 717 (2005) (federal regulation of natural gas).

28. *See* 15 U.S.C.A. § 717f (West 2019). For more on this authority, see *Natural Gas: Natural Gas Pipelines*, FERC (last updated May 2025), https://ferc.gov/natural-gas/natural-gas-pipelines.

29. *See* 15 U.S.C.A. § 717b (West 2005). For more on this authority, see *Natural Gas: LNG*, FERC (last updated Mar. 31, 2026), https://ferc.gov/natural-gas/lng.

30. *See* 16 U.S.C.A. § 823a (West 2018) (conduit hydroelectric facilities); 16 U.S.C.A. § 823e (West 2018) (hydropower development at nonpowered dams). For more on this authority, see *Hydropower*, FERC (last updated Mar. 16, 2026), https://ferc.gov/hydropower.

31. *See* 16 U.S.C.A. § 824p (West 2021). For more on this authority, see *Electric Transmission Siting*, FERC (last updated Aug. 7, 2024), https://ferc.gov/electric-transmission-siting.

32. These considerations have long been required by the National Environmental Policy Act of 1969, Pub. L. No. 91-190, 83 Stat. 852 (1970) (codified as amended at 42 U.S.C. §§ 4321-4347). Recent changes to NEPA under the second Trump Administration are beyond the scope of this paper. *See Fact Sheet: President Trump Is Delivering Historic Permitting Wins Across the Federal Government*, THE WHITE HOUSE (June 30, 2025), https://www.whitehouse.gov/fact-sheets/2025/06/fact-sheet-president-trump-is-delivering-historic-permitting-wins-across-the-federal-government/.

33. Natural Gas Act of 1938, Pub. L. No. 75-688, 52 Stat. 821 (1938) (codified as amended at 15 U.S.C. §§ 717-717z); *see also* Alexandra B. Klass & Jim Rossi, *Reconstituting the Federalism Battle in Energy Transportation*, 41 HARV. ENV'T L. REV. 423, 432 (2017).

34. 15 U.S.C.A. § 717f(c)-(e).

they are unable to secure the requisite property rights to complete the project.[35] In a recent development, FERC is further exploring whether to "establish streamlined procedures for authorizing activities at LNG plants without case-specific authorization" to minimize individual approvals.[36] Although the NGA and FERC regulations "generally preempt state and local law," FERC encourages pipeline developers "to cooperate with state and local agencies with regard to the siting of pipeline facilities, environmental mitigation measures, and construction procedures."[37] States can participate in the certificate process, and may appeal to the courts in the event a decision is adverse to state interests, but they cannot generally prevent grant of a certificate.[38] Their authority over interstate natural gas projects is limited to other aspects of project permitting, such as environmental permits under the Clean Air Act, Clean Water Act, or Coastal Zone Management Act.[39]

In contrast to the federal siting role under the NGA, interstate transmission policy illustrates an enduring general disinclination to intrude upon traditional state land use domains. Twenty years ago, the Energy Policy Act of 2005 sought to expand FERC's role in siting transmission by authorizing National Interest Electric Transmission Corridors (NIETCs) (to be designated by the Department of Energy) within which FERC could approve a proposed transmission line if a state did not take certain actions set forth in the statute within a prescribed period of time.[40] The Commission never used the authority, however.[41] The Infrastructure Investment and Jobs Act of 2021 clarified and affirmed FERC's authority, supporting a more robust, if still limited, federal role.[42] In the waning months of the Biden Administration, the Department of Energy announced it was developing three NIETCs to enhance transmission access across seven states and five tribal reservations.[43] Although the future of these designations under the Trump Administration is not entirely clear, if approved, the projects would be the first

---

35. *Id*. § 717f (c)-(d).

36. *See FERC Explores Blanket Authorizations for LNG and Hydroelectric Projects*, FERC (Nov. 20, 2025), www.ferc.gov/news-events/news/ferc-explores-blanket-authorizations-lng-and-hydroelectric-projects.

37. N. Nat. Gas Co. v. Iowa Utils. Bd., 377 F.3d 817, 823 (8th Cir. 2004).

38. PennEast Pipeline Co. v. New Jersey, 594 U.S. 482, 498 (2021) ("No one disputes that [Natural Gas Act] § 717f(h) was passed specifically to solve the problem of States impeding interstate pipeline development by withholding access to their own eminent domain procedures.") (clarifying even state lands may be subject to eminent domain by pipeline companies via federal delegation under the statute).

39. *N. Nat. Gas Co*., 377 F.3d at 819.

40. 16 U.S.C.A. § 824p.

41. *See generally* Piedmont Env't Council v. FERC, 558 F.3d 304 (4th Cir. 2009); Cal. Wilderness Coal. v. U.S. Dep't of Energy, 631 F.3d 1072 (9th Cir. 2011) (rejecting federal interpretations of federal authority in connection with NIETCs in both cases).

42. Infrastructure Investment and Jobs Act, Pub. L. 117-58, 135 Stat. 933 (2021) (amending § 216 of the Federal Power Act, 16 U.S.C. § 824p(a) (2021)) (negating the impact of the court opinions cited *supra* note 41).

43. *Notice of Early Public and Governmental Engagement for Potential Designation of Tribal Energy Access, Southwestern Grid Connector, and Lake Erie-Canada National Interest Electric Transmission Corridors*, 89 Fed. Reg. 101,597 (U.S. Dep't of Energy Dec. 16, 2024). The purpose of the proposals is to enhance grid capacity across North Dakota, South Dakota, Nebraska, Colorado, New Mexico, Oklahoma, Pennsylvania (connection through Lake Erie), and the Cheyene River, Pine Ridge, Rosebud Indian, Standing Rock, and Yankton Reservations. *Id*. at 101,599.

completed through the NIETC siting process, potentially setting a precedent for additional federal involvement in siting for regional transmission development.[44] In sum, there has been little appetite in Congress to expand the federal role in energy land use decisions traditionally made by state and local governments.

2. Mapping State and Local Roles in Energy Siting

State and local authority over energy siting commonly intersects to some degree. In 2024, the Regulatory Assistance Project reviewed renewable energy siting policies across the U.S. and identified four broad regulatory categories: states in which localities have principal authority (twelve states);[45] states where principal siting authority is at the state level (six states);[46] states in which both the state and local levels have some authority (six states);[47] and states in which state or local authority is contingent upon a project characteristic or size threshold (twenty-seven states).[48] Commonly, when a state agency[49] exercises contingent authority over siting, it does so based on the energy source (thermal power plant versus renewable energy project, for example) and project scale (e.g., megawatts of electric power generating capacity).[50] Notably, the majority of states, including states that do not have principally local siting authority, have a statutory or regulatory requirement for public involvement. [51]

Some states have approached streamlining by assigning siting authority to agencies. Some have even worked with neighboring states to facilitate siting arrangements.[52] Similar to the federal level, states employ eminent domain to

---

44. *See generally* Order No. 1977, *Applications for Permits to Site Interstate Electric Transmission Facilities*, 187 FERC ¶ 61,069 (2024). For the current status of the proposals, see *National Interest Electric Transmission Corridor Designation Process*, U.S. DEP'T OF ENERGY: OFF. OF ELEC., https://www.energy.gov/oe/national-interest-electric-transmission-corridor-designation-process (last visited Mar. 1, 2026).

45. These include Alabama, Delaware, Georgia, Hawaii, Illinois, Indiana, Kansas, Missouri, Montana, Pennsylvania, Texas, and Utah.

46. These include Maryland, Mississippi, Nebraska, New Jersey, and West Virginia. The project also included Puerto Rico in this group.

47. These include Alaska, Colorado, Idaho, Maine, Oklahoma, and Vermont.

48. RAP, *supra* note 2, at 6, tbl. 1. The "both" category includes "'both/and' scenarios in which both the state and local governments have some authority" while the "contingent" category includes "'either/or' scenarios in which either state or local government has principal authority, nearly always depending upon the size of the project." *Id*. Note that the surge in wind and solar energy projects has increased data accessibility regarding siting authority as between states and localities. Even with the breadth of information, reports vary as to reliability because of swift changes in law and the difficulty in providing general siting guidance without project specifications. The RAP report is current as of Feb. 2024. *Id*. at 1.

49. These may be Public Utility Commissions, Energy Siting Boards, Natural Resources Commissions, and Departments of Environmental Quality, among others. *See* RAP, *supra* note 2, at 8. For a helpful overview of the evolution of state energy regulation from the inception of Public Utility Commissions to the advent of state energy offices and energy infrastructure siting boards, see Sharon B. Jacobs, *Agency Genesis and the Energy Transition*, 121 COLUM. L. REV. 835 (2021).

50. RAP, *supra* note 2, at 9 fig. 3, 9 tbl. 2.

51. *Id*. at 11, 11 fig. 5.

52. For example, Maine and Connecticut have formed a regional compact aimed at expediting renewable energy development ahead of the expiration of key federal tax incentives in 2026. *See* Sarah Shemkus,

facilitate efficient siting processes and to achieve energy goals.[53] While most states grant utilities and other service providers this authority for state approved projects, some have limited the scope of eminent domain in ways that reflect policy choices. For example, Oklahoma has prohibited the use eminent domain to site wind, solar, battery storage, and other renewable energy facilities.[54] While laws like these may be indicative of state and local preferences, they also highlight the contrast between regulatory tools available to advance fossil energy infrastructure compared with clean energy infrastructure.

As of 2021, at least twelve states already had a designated siting office or agency for at least some types of energy facilities.[55] For example, in Florida, the Siting Coordination Office provides interagency oversight and grants certifications for power plants,[56] transmission lines,[57] and intrastate natural gas pipelines, streamlining the regulatory process.[58] In Ohio, the Ohio Power Siting Board (OPSB) regulates electric generating facilities, transmission lines, and intrastate natural gas pipelines.[59] In Ohio, by contrast, localities retain authority to impose siting moratoria within their jurisdiction for wind and solar projects.[60] While the OPSB regulates all "major utility facilities,"[61] only for wind and solar projects can localities circumvent the public utility zoning exemption which otherwise limits local zoning authority "in respect to the location, erection,

---

Connecticut and Maine Team Up to Fast-Track Renewables, CANARY MEDIA (Oct. 29, 2025), https://www.canarymedia.com/articles/clean-energy/connecticut-maine-fast-track-wind-solar?amp%3Butm_medium=email&amp%3Butm_campaign=canary&_hsmi=387403469&utm_source=newsletter.

53. *See* Alexandra B. Klass, *Eminent Domain as Climate Policy*, 2020 WIS. L. REV. 49, 57-61, 71-89 (2020) (explaining that eminent domain for energy development is primarily exercised at the state level for electric transmission lines, oil pipelines, and intrastate natural gas pipelines, and that the authority could be expanded to include clean energy projects). On grassroots efforts opposing the exercise of eminent domain for pipelines, see generally, *Urgent Fights*, PIPELINE FIGHTERS HUB, https://pipelinefighters.org (last visited Dec. 1, 2025).

54. OKLA. STAT. ANN. tit. 27, § 7 (West 2025). *See also* KAN. STAT. ANN. § 66-104(g) (West 2024) (prohibiting eminent domain for the construction of wind generation facilities, which was redundant to existing law).

55. Jacobs, *supra* note 49, at 854 (Arizona, Connecticut, Florida, Kentucky, Maryland, Massachusetts, New Hampshire, New York, Ohio, Oregon, Rhode Island, and Washington).

56. *See* FLA. STAT. ANN. §§ 403.501-403.519 (2025). The Power Plant Siting Act limits applicability to steam and solar electrical generating facilities that generate 75 MW or more. *Id*. § 403.506.

57. *See* FLA. STAT. ANN. §§ 403.52-403.5365 (2025). The Transmission Line Siting Act limits applicability to electrical transmission lines that are 230 kV or larger, cross a county line, and are 15 miles or longer. *Id*. § 403.524.

58. *See* FLA. STAT. ANN. §§ 403.9401-403.9425 (2025). The Natural Gas Transmission Pipeline Siting Act streamlines siting for natural gas transmission corridors and transmission pipelines. However, the Act exempts pipelines that do not cross county lines, are less than 15 miles in length, or are primarily for local distribution. *Id*. § 403.9405.

59. OHIO REV. CODE ANN. §§ 4906.01-4906.03 (West 2025).

60. OHIO REV. CODE ANN. § 303.58 (West 2025).

61. Major utility facilities include electricity generating plants with a capacity of 50 MW or more, electric transmission lines and associated facilities of 100 kV or more, or a gas pipeline that is greater than 500 feet in length, more than nine inches in diameter, and designed for transporting gas that meets statutory parameters. OHIO REV. CODE ANN. § 4906.01(B)(1)(a)-(c) (West 2025).

construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures of any public utility."[62]

State agencies have thus long played a critical role in energy siting, but less commonly in connection to renewable energy projects. Even as some states begin to exert greater authority over renewable energy development, however, local governments continue to play an important role. Indeed, although local opposition to utility-scale renewable energy projects has increased in recent years, localities have been and continue to be important drivers of clean energy policy in the U.S., including in rural areas, though hindered in many instances by state law impediments.[63] The diversity among states thus reflects a mix of policy priorities shaping the trade-offs between speed of development, energy security, climate goals, local control, and energy justice.

III. STREAMLINED SITING AND ENERGY JUSTICE

Streamlined energy siting regimes with decisional authority at the state level are in obvious tension with community-scale governance over land use. The four states we assess are attuned to energy justice principles as defined theoretically and through community engagement. The streamlining approaches discussed in section IV attempt to ease the regulatory tension in various ways, which we compare and evaluate for what they suggest about the possibility of serving concomitant goals of expediency and respect for host communities. Before turning to a comparative analysis of the legal instruments, this section situates these dual but often conflicting objectives in relation to energy justice. Conceptions of energy justice in the context of infrastructure siting often treat local decision-making as an essential justice dimension.[64] This arises both from the overlapping environmental justice concerns that arise when infrastructure will harm local air or water quality and from calls for energy democracy that center on community self-determination for a just clean energy transition.

A. Alignments Between Energy Justice and Community-Scale Governance

Energy justice builds on the conceptual foundations of the environmental justice movement, which has drawn attention over many decades to how exposure

---

62. *See* OHIO REV. CODE ANN. §§ 303.211(A), 519.211(A) (West 2025).

63. *See, e.g.*, Maria McCoy, *The 2024 Community Energy Scorecard*, INST. FOR LOC. SELF-RELIANCE (Mar. 20, 2024), https://ilsr.org/article/energy-democracy/2024-community-power-scorecard/ (measuring state policies that help or hinder local clean energy action "because community power is necessary for an equitable, democratic transition away from the status quo") (giving most states an F). A recent study of wind development in Kansas demonstrated strong rural acceptance over time with local control, though siting approvals have become more difficult at the local level in recent years. *See generally* Ian Njuguna et al., *Navigating Headwinds in the Green Energy Transition: Explaining Variations in Local-Level Wind Energy Regulations,* 17 SUSTAINABILITY, Oct. 9, 2025, at 1 (analysis of local wind ordinances in Kansas).

64. *See, e.g.*, Shalanda H. Baker & Andrew Kinde, *The Pathway to a Green New Deal: Synthesizing Transdisciplinary Literatures and Activist Frameworks to Achieve a Just Energy Transition,* 44 ENVIRONS ENV'T L. & POL'Y J. 1, 3-4 (2020) (framing energy democracy as a means of achieving energy justice); SANYA CARLEY, ET AL., STATE AND LOCAL ENERGY JUSTICE PROGRAMS 2 fig. 1 (2019) (including collective action and democratization as two of the categories of preliminary nationwide energy justice programs).

to environmental harms tracks socioeconomic and racial lines.[65] Eliminating disproportionate pollution exposure in disadvantaged communities from all industrial sources, not just the energy sector, has long been a central objective of environmental justice.[66] An expansive literature on environmental justice details its procedural, distributive, and restorative dimensions.[67] By elevating "the goal of achieving equity in both the social and economic participation in the energy system" – staying with the Institute for Energy Justice definition – energy justice retains these dimensions and extends beyond energy's environmental effects to critique the impacts of economic regulation in the energy sector.[68] At the same time, the focus on "remediating social, economic, and health burdens on marginalized communities" incorporates the restorative aim of assuring energy sector benefits can be a mechanism for achieving community-scale wellbeing.[69] This goal animates calls for *just* transitions that protect energy industry workers and host communities as the energy sector evolves.[70]

Energy democracy, as a theoretical and grassroots concern, is commonly advanced with a goal of centering energy policy decision-making with people affected by those decisions.[71] For energy infrastructure, this perspective has tended to imply local governance best serves this goal. As numerous scholars have

---

65. For a seminal early work, see generally LUKE W. COLE & SHEILA R. FOSTER, FROM THE GROUND UP: ENVIRONMENTAL RACISM AND THE RISE OF THE ENVIRONMENTAL JUSTICE MOVEMENT (Richard Delgado & Jean Stefancic eds., 2001).

66. *See, e.g.*, First Nat'l People of Color Env't Leadership Summit, *The Principles of Environmental Justice*, CLIMATE JUST. ALL., https://climatejusticealliance.org/ej-principles/ (last visited Oct. 1, 2025); Robert D. Bullard, *Environmental Justice for All, in* UNEQUAL PROTECTION: ENVIRONMENTAL JUSTICE AND COMMUNITIES OF COLOR 3 (Robert D. Bullard ed., 1994).

67. *See, e.g.*, Robert R. Kuehn, *A Taxonomy of Environmental Justice,* 30 ENV'T L. REP. 10681, 10681-82 (2000).

68. BAKER, DEVAR & PRAKASH, *supra* note 7, at 5. Other legal scholars have defined energy justice in similar ways. *See* Benjamin K. Sovacool & Michael H. Dworkin, *Energy Justice: Conceptual Insights and Practical Application*s, 142 APPLIED ENERGY 435, 436-37 (2015) (defining energy justice as "a global energy system that fairly disseminates both the benefits and costs of energy services, and one that has representative and impartial energy decision-making.").

69. BAKER, DEVAR & PRAKASH, *supra* note 7, at 5.

70. *See generally* Nadia Ahmad et al., *Synthesizing Energy Transitions,* 39 GA. STATE UNIV. L. REV. 1087 (2023) (exploring the multi-disciplinary concept of just transition in more detail); Darren McCauley & Raphael Heffron, *Just Transition: Integrating Climate, Energy and Environmental Justice*, 119 ENERGY POL'Y 1 (2018) (presenting just transition theory as a unifying framework with a focus on distributional and procedural dimensions of energy, environmental and climate justice); Ann M. Eisenberg, *Just Transitions*, 92 S. CAL. L. REV. 273 (2019) (discussing "just transition" theory and considering in the energy context).

71. *See* JAMES GOODWIN, DEFINING ENERGY DEMOCRACY: CLAIMING OUR EQUITABLE ENERGY FUTURE THROUGH COLLECTIVE POWER 12-13 (2023) (synthesizing various attempts to define and conceptualize "energy democracy" and highlighting complications with this framing). *See also* CONGRESSIONAL BRIEFING – APRIL 20, 2021, EMERALD CITIES COLLABORATIVE & ENERGY DEMOCRACY PROJECT 5 (2021), https://drive.google.com/file/d/1NbdL4BkQemw5tzqjoOd-N2CgREIxoSId/view (explaining energy democracy "aims to enable working people, low-income communities, and communities of color and their allies to take control of energy resources *and decision-making* from the corporate energy establishment and use those resources to empower their communities." (emphasis added)); *see generally* ENERGY DEMOCRACY: ADVANCING EQUITY IN CLEAN ENERGY SOLUTIONS (Denise Fairchild & Al Weinrub eds., 2017) (collection of chapters focused on energy systems transformation through grassroots leadership); *see generally* Baker & Kinde, *supra* note 64 (bringing scholarly literature into dialogue with grassroots concepts of just energy transitions).

observed, localities often have been leaders on energy and environmental issues, and collectively they have the potential to contribute significantly to climate change mitigation.[72] Through this lens, community members should be empowered to make decisions about the type of energy resources they use and that shape their local landscapes.[73] Central ideas in energy democracy theory are decentralizing electric power generation from clean energy resources in response to public demand and devolving decision-making authority to the level closest to the affected community.[74]

With these aims, there is an overarching compatibility between increasing zero-carbon electricity generation and energy justice that may be complicated by a shift from local to state authority. At the same time, fissures can emerge between idealized conceptions of energy democracy, commonly aligned with energy justice, and local control, as traditionally conceived.

B. Fissures Between Local Control and Energy Justice

Taking a step back from an idealized vision of what local energy democracy might achieve for energy justice, experiences across the nation suggest that alignment between these ideals in the context of energy development is not necessarily assured by local authority to approve or reject a project. Energy infrastructure intersects with principles of justice and democracy in complex and variable ways. For energy projects that pose health risks to host communities, streamlined state siting can more readily be anticipated to conflict with environmental and energy justice principles. For example, gas, coal, biomass, or waste-to-energy power plants affect local air quality.[75] Environmental justice is plainly implicated based on pollutant exposure, and the U.S. Environmental Protection Agency's traditional definition, as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with

---

72. *See, e.g.*, Uma Outka, *Cities and the Low-Carbon Grid,* 46 ENV'T L. 105. 111-32 (2016) (detailing local government efforts to pursue climate action through public ownership of electric power generating facilities or other means to shift to cleaner energy); John R. Nolon, *In Praise of Parochialism: The Advent of Local Environmental Law,* 26 HARV. ENV'T L. REV. 365, 398-99 (2002) (detailing how local governments have use their legal authority to advance environmental protection at the community scale). *See generally ICLEI - Local Governments for Sustainability*, ICLEI, https://iclei.org/ (last visited Dec. 1, 2025).

73. Emerging literature on spatial justice also serves as a conceptual bridge between the procedural and distributive aspects of siting, energy justice, and energy democracy. *See, e.g.*, ROBERTO ROCCO, JULIANA Gonçalves & Hugo Lopez, THE SPATIAL JUSTICE HANDBOOK 27-34 (Roberto Rocco, Juliana Gonçalves & Hugo Lopez eds., 2025).

74. *See, e.g.*, CTR. FOR EARTH, ENERGY AND DEMOCRACY & CJA ENERGY DEMOCRACY WORKING GRP., TEN PRINCIPLES FOR ENERGY DEMOCRACY, CLIMATE JUST. ALL., https://climatejusticealliance.org/wp-content/uploads/2023/07/CJA_EnergyDemPrinciples1_4pg_bleeds_F.pdf (last visited Dec. 1, 2025); *Energy Democracy Initiative*, INST. FOR LOCAL SELF-RELIANCE, https://ilsr.org/energy/ (last visited Oct. 1, 2025) (highlighting as goals for energy democracy community solar, rooftop solar, public power, locally owned clean energy projects); Shelley Welton, *Grasping for Energy Democracy,* 116 MICH. L. REV. 581, 586 (2018); John R. Nolon, *Champions of Change: Reinventing Democracy through Land Use Reform,* 30 HARV. ENV'T L. REV. 1, 13 (2006).

75. *See, e.g.*, *Ambient (Outdoor) Air Pollution*, WORLD HEALTH ORG. (Oct. 24, 2024), https://www.who.int/news-room/fact-sheets/detail/ambient-(outdoor)-air-quality-and-health.

respect to the development, implementation, and enforcement of environmental laws, regulations, and policies."[76]

The unique considerations presented for siting reform and energy (and environmental) justice maps somewhat differently in the context of energy infrastructure, like wind and solar projects, that will *reduce* the environmental impact of the energy sector. Although all energy resources have environmental impacts, in contrast to coal and gas, wind and solar projects generate emissions-free electricity.[77] Local opposition can be emblematic of residents' sense of place, including meaningful cultural, historical, and spiritual significance, as well as socio-spatial elements related to aesthetic preferences.[78] It can also stem from concern over potential impacts of projects on neighboring property values, and, increasingly, misinformation circulated by non-local interest groups that create confusion among residents of prospective host communities.[79] New wind and solar projects are often proposed in communities that are not currently affected by

---

76. *See* Cong. Rsch. Serv., *Role of the U.S. Environmental Protection Agency in Environmental Justice*, CONGRESS.GOV (last updated Sep. 7, 2023), https://www.congress.gov/crs-product/IF10529 (quoting EPA's definition and role of EPA in advancing environmental justice). This definition, though not acknowledged by the current EPA, has been incorporated at the state level in numerous states. *See, e.g.*, *What is Environmental Justice?*, N.J. DEP'T OF ENV'T PROT., https://dep.nj.gov/ej/ (last visited Oct. 1, 2025). The current EPA leadership, at the direction of the Trump White House, has eliminated environmental justice as a federal priority. *See* Exec. Order No. 14,173, 90 Fed. Reg. 8633 (Jan. 31, 2025) (revoking Exec. Order No. 12,898, 59 Fed. Reg. 7629 (Feb. 16, 1994) which established environmental justice as a federal goal thirty years ago). *What is Environmental Justice?*, N.J. DEP'T OF ENV'T PROT., https://dep.nj.gov/ej/ (last visited Oct. 1, 2025) ("'Fair treatment' means that no group of people should be a disproportionate share of the negative environmental consequences resulting from industrial, governmental, and commercial operations or policies.") *Id*. ("'Meaningful involvement' means that people have an opportunity to participate in decisions about activities that may affect their environment and/or health; the public's contribution can influence the regulatory agency's decision; community concerns will be considered in the decision-making process; and decision makers will seek out and facilitate the involvement of those potentially affected.").

77. There are other environmental impacts across the lifecycle of clean energy technologies, of course, from production to recycling and disposal. Critically, however, wind and solar do not emit GHGs in generated electricity, unlike the fossil energy alternatives, which have upstream and downstream impacts as well as GHG emissions from power generation. *See Impacts of Solar, Wind, and EVs*, COLUM. L. SCH.: COLUM. CLIMATE SCH. SABIN CTR. FOR CLIMATE CHANGE L, https://climate.law.columbia.edu/content/impacts-solar-wind-and-evs (last visited Apr. 19, 2026).

78. *See* Welton, *supra* note 9, at 72-88 (observing how cultural cognition "causes people to process information about climate change on the basis of how it aligns, or misaligns, with their worldview" and thus shapes their perspective about whether and how fast to decarbonize) (internal citations omitted). Scholars have also suggested that there can be a divergence between place attachment and democratic capacity which limits one's engagement with local government. *See e.g.*, Rick Su, *Democracy in Rural America*, 98 N.C. L. REV. 837, 847-55 (2020). In connection with tribal opposition to projects, see Elizabeth Ann Kronk Warner, *Tribal Treaty Rights: A Powerful Tool in Challenges to Energy Infrastructure,* 51 U. CONN. L. REV. 843, 849 (2019) (discussing fossil energy infrastructure, but noting how "[n]ative cultures and traditions are often tied to the environment and land in a manner that traditionally differs from that of the dominant society."). Project proposals that implicate tribal sovereignty are beyond the scope of this paper. For more on this topic as it relates to tribal renewable energy development, see generally Elizabeth Ann Kronk Warner, *Renewable Energy Depends on Tribal Sovereignty,* 69 KAN. L. REV. 809 (2021).

79. *See, e.g.*, MATTHEW EISENSON ET AL., REBUTTING 33 FALSE CLAIMS ABOUT SOLAR, WIND, AND ELECTRIC VEHICLES (2024) (detailing common myths used to obfuscate facts in local project controversies); Elisabeth Weise, *Do Wind Turbines Kill Birds? Are Solar Panels Toxic? The Truth Behind Green Energy Debates,* USA TODAY (last updated Feb. 6, 2024), https://www.usatoday.com/story/news/investigations/2024/02/04/green-energy-fact-checked/72390472007/.

polluting facilities.[80] Political polarization has increasingly attended renewable energy proposals, introducing unexpected levels of emotion and community strife to local public hearings and decisionmakers.[81]

To be sure, however – and this is critically important – there are legitimate reasons to reject particular sites for project development. Some localities have helpfully crafted local land use rules, steering projects to appropriate locations to protect natural resources and neighboring property owners. Yet some local restrictions are, in effect, de facto bans. In 2025, the Sabin Center for Climate Change Law reported a 16% increase in siting restrictions and a 32% increase in contested projects within one year's time.[82] Even for a project on a site considered suitable, a loud, oppositional minority can drown out supporters and intimidate decision-makers. As countless local wind and solar controversies make clear, decisions to approve or reject a project rarely represent community consensus, leaving some residents disappointed with either outcome. When wind and solar proposals are rejected or withdrawn, community members in opposition may be satisfied, while supporters contend with losing benefits they hoped to see for their community.[83]

Consensus-driven decision-making at the local level, in theory, seeks to integrate diverse viewpoints to achieve a collaborative outcome.[84] However, this process often suffers from inequitable distributions of social, economic, and political power which can be especially pronounced where there are conflicting interests and social relationships among local constituencies.[85] In these ways, the energy justice implications of clean energy development are defined by geographic and temporal scales that destabilize the assumption that community-scale governance and energy justice are necessarily aligned. Energy democracy may in fact be better exercised at the state level when local choices impose or prolong harmful impacts beyond local borders.[86] In other words, expanding

---

80. For example, the vast majority of wind and solar energy facilities are located in agricultural areas rather than industrial areas where most polluting facilities are located. *See generally* KAREN MAGUIRE, UTILITY-SCALE SOLAR AND WIND DEVELOPMENT IN RURAL AREAS: LAND COVER CHANGE (2009-20) (2024).

81. EISENSON ET AL., *supra* note 79, at iii (referencing research on "astroturf 'local' organizations").

82. MATTHEW EISENSON ET AL., OPPOSITION TO RENEWABLE ENERGY FACILITIES IN THE UNITED STATES: JUNE 2025 EDITION 7, 11 (2025) (defining contested projects as "those that have faced significant opposition by individual residents, community-based groups, or other organizations."). In 2024, Michigan had the greatest number (62) of local restrictions while New York had the greatest number (41) of contested projects. *Id*. at 7, fig. 2.

83. *See* HOLM & GOODWIN, *supra* note 1, at 4-5 (detailing lost potential benefits for communities that bar renewable energy development).

84. *See* Sheila R. Foster*, Environmental Justice in an Era of Devolved Collaboration*, 26 HARV. ENV'T L. REV. 459, 472 (2002) (evaluating the concept of devolved collaboration, meant to promote "widespread, independent participation by local groups to craft comprehensive solutions to difficult environmental concerns on a geographically-focused scale" by encouraging deep civic participation and a more deliberative process, through lens of environmental justice).

85. *Id*. at 463 ("despite the interest-convergence of devolved collaboration and environmental justice, there are dangers lurking at their intersection" that in some contexts may "add renewed legitimacy to racial and class distributional inequities."). *See also id*. at 484-94.

86. *See* Lemar, *supra* note 26, at 345-48.

geographic, temporal, and governance scales to incorporate broader stakeholder interests may better align democratic principles with energy justice goals.[87]

This unsettles the notion that energy democracy is necessarily best interpreted as community-based, given that states, such as those studied below, have adopted energy policies through democratic process for a cleaner energy sector. These policies reduce globally harmful greenhouse gas emissions as well as localized air pollution when polluting facilities are retired or new construction is avoided. A failed wind project in one part of a state, for example, may contribute to the longer operational life of a coal plant in another, affecting localized air pollution. States with climate policies are taking state-wide protective action for the most vulnerable within their states and around the world, anticipating the most severe impacts of climate change will fall to the people least able to insulate themselves from those effects.[88]

IV. STREAMLINING FOR CLEAN ENERGY TRANSITIONS

States that are committed to achieving 100% clean energy targets must confront barriers to new infrastructure siting alongside community impacts of energy transitions. This section assesses how four states are attempting to safeguard procedural justice in renewable energy siting while also facilitating a robust transition to clean energy sources.

A. State-Local Restructuring Under Streamlined Siting Regimes

We focus this research on the recently reformed siting regimes in New York, Illinois, Michigan, and Massachusetts because (1) each state has a 100% clean energy target; (2) each state has expressed in some formal way a commitment to energy or environmental justice; and (3) each state has taken action in the last five years to adjust renewable energy siting authority between the local and state level. These criteria narrowed the scope of review to states with comparable statewide goals, commitments, and approaches to recent siting reform. The basic structure of each state approach is briefly outlined below.

1. New York

In 2019, the New York state legislature enacted the Climate Leadership and Community Protection Act (CLCPA) requiring, among other things, 70% of electricity sold in the state to be sourced from renewable energy by 2030 and for 100% of electricity to come from "zero-emission" sources by 2040.[89] The CLCPA

87. *See* Foster, *supra* note 84, at 485-87; *see generally* Danielle Stokes, *Renewable Energy Federalism 2.0*, 109 MINN. L. REV. 3017 (2025) (suggesting multi-scalar collaborative governance to achieve sustainable outcomes within the renewable energy siting regime).

88. *See, e.g.*, U.N. ENV'T PROGRAMME, RUNNING ON EMPTY: ADAPTATION GAP REPORT 2025 (2025), https://www.unep.org/resources/adaptation-gap-report-2025 (focusing on international scale); U.S. GLOB. CHANGE RSCH. PROGRAM, FIFTH NATIONAL CLIMATE ASSESSMENT (2023), https://toolkit.climate.gov/NCA5 (focusing on U.S.).

89. N.Y. ENV'T CONSERV. LAW §§ 75-0101–75-0109; 75–0117. The mandates apply to jurisdictional load serving entities, meaning those that are subject to the New York Public Service Commission's jurisdiction that secures energy to serve the energy requirements of end-use customers in the state. *See* N.Y. PUB. SERV. LAW § 66-p (Consol. 2025).

also created a Climate Justice Working Group to "establish[] criteria to identify disadvantaged communities[90] for purposes of co-pollutant reductions, greenhouse gas emissions reductions, regulatory impact statements, and the allocation of investments."[91] In 2023, the state expanded on these protections by enacting what has been called one of "the strongest environmental justice law[s] in the United States" to protect against "disproportionate pollution burden on the disadvantaged community."[92] Where new development may increase exposure to emissions or additional environmental harms, developers must implement an enhanced public participation plan.[93]

To accelerate progress toward the CLCPA targets, New York was quick to adopt streamlined siting for renewable energy projects. The Accelerated Renewable Energy Growth and Community Benefit Act established the Office of Renewable Energy Siting (ORES) within the Department of State in 2020.[94] ORES consolidates the environmental review and permitting process for all renewable energy projects that are twenty-five megawatts (MW) or larger.[95]

In 2024, New York passed the Renewable Action through Project Interconnection and Deployment (RAPID) Act.[96] The RAPID Act transferred ORES to the Department of Public Service and expanded its siting authority to include major electric transmission (MET).[97] ORES is now responsible for setting standards and conditions for the design, construction, and operation of both major renewable energy and MET facilities.[98]

Under the ORES siting process, applicants must host at least one public meeting for members of the community who may be adversely impacted by the

---

90. *See* N.Y. STATE DEP'T OF ENV'T CONSERVATION., DEC PROGRAM POLICY: PERMITTING AND DISADVANTAGED COMMUNITIES UNDER THE CLIMATE LEADERSHIP AND COMMUNITY PROTECTION ACT 2 (2024), https://dec.ny.gov/sites/default/files/2024-05/prgrmpolicy24dash1.pdf [hereinafter DEC PROGRAM POLICY]; N.Y. ENV'T CONSERV. LAW § 75-0101(5) (West 2026) ("'Disadvantaged communities' mean communities that bear burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria, or comprise high-concentrations of low- and moderate-income households…").

91. The Working Group includes activists, community organizations and state regulators. The standards are incorporated into the permitting process related to air pollution control, waste management, and withdrawing water for cooling purposes. *See* DEC PROGRAM POLICY, *supra* note 90, at 2.

92. For a discussion of this bill, see Michael B. Gerrard & Edward McTiernan, *New York Adopts Nation's Strongest Environmental Justice Law*, N.Y. L.J., May 10, 2023 (quoting N.Y. ENV'T CONSERV. L. § 70-0118 (West 2026)). For a helpful summary of environmental justice law and policy in New York, see *How New York is Addressing Environmental Justice*, ENV'T JUST. STATE BY STATE (last updated June 27, 2023), https://ejstatebystate.org/directory/new-york.

93. N.Y. COMP. CODES R. & REGS. tit. 6, § 621.3(g)(vii)(13) (2026).

94. N.Y. EXEC. LAW § 94-c, *repealed by*, Renewable Action through Project Interconnection and Deployment (RAPID) Act of 2024, ch. 58, § 2.

95. *Id*.

96. N.Y. PUB. SERV. LAW §§ 3-c, 136-148 (McKinney 2026).

97. N.Y. PUB. SERV. LAW § 161 (McKinney 2026) (conforming ORES regulation to the Board on Electric Generation Siting, which regulates all other major electric generating facilities and is under the purview of the Department of Public Service); N.Y. PUB. SERV. LAW § 168 (McKinney 2026) (explaining that all facilities should be designed to operate in compliance with applicable local laws).

98. Each process includes a prescribed timeline for application review, public comment, and application approval. *See* N.Y. PUB. SERV. LAW §§ 141-142 (McKinney 2026).

facility siting at least sixty days prior to submitting their application.[99] A complete application must include proof of community consultation as evidenced by presentation materials, transcripts, and a summary of the questions raised during the meeting.[100] ORES has developed solar, energy storage, and wind facility guidebooks to offer technical support and general guidelines to facilitate informed community engagement.[101]

A draft permit for each project must be submitted for public comment within sixty days of determining that the application is complete.[102] Localities must provide a statement indicating "whether the proposed project is designed to be sited, constructed and operated in compliance with applicable local laws and regulations. . . ."[103] If a locality indicates that the facility is not in compliance, ORES must host an adjudicatory or non-adjudicatory public hearing in the affected area.[104] However, ORES may issue a final siting permit for a facility that does not comply with local ordinances if the local regulation is "unreasonably burdensome in view of the [zero emissions] targets, and the environmental benefits" of the proposed facility.[105] For all adjudicatory hearings, ORES designates staff to represent the public interest. ORES must make a final decision on major renewable energy facilities within six months if the site is repurposed for energy production or within one year for all other project locations.[106]

While the CLCPA and RAPID Act allow ORES to preempt local regulation, the statutes also mandate local government review, investment in a community intervenors fund of $1,000 per MW, and final permits that include host community benefits, such as discounts and credits on utility bills.[107]

---

99. N.Y. COMP. CODES R. & REGS. tit. 16, § 1100-1.3(a)-(b) (2026).

100. *Id*. § 1100-1.3(c).

101. *Office of Renewable Energy Siting*, NYSERDA, https://www.nyserda.ny.gov/All-Programs/Clean-Energy-Siting-Resources/Siting-for-Large-Scale-Renewables/Office-of-Renewable-Energy-Siting (last visited Dec. 1, 2025).

102. N.Y. PUB. SERV. LAW § 142(3) (McKinney 2026).

103. *Id*.

104. *Id*. §142(3)-(4) (requiring adjudicatory public hearings where public comments raise a substantive or significant issue). N.Y. COMP. CODES R. & REGS. tit. 16, § 1100-8.3(d)(2)-(3) (2026) (explaining that an issue is substantive if "there is sufficient doubt about the applicant's ability to meet statutory or regulatory criteria applicable to the project, such that a reasonable person would require further inquiry. . . . [and] [a]n issue is significant if it has the potential to result in the denial of a siting permit, a major modification to the proposed project or the imposition of significant permit conditions in addition to those proposed in the draft siting permit, including uniform standards and conditions").

105. N.Y. PUB. SERV. LAW § 142(5) (McKinney 2026); see also Michael B. Gerrard & Edward McTiernan, *New York's New Statute on Siting Renewable Energy Facilities*, 263 N.Y. L.J., May 14, 2020, https://climate.law.columbia.edu/sites/climate.law.columbia.edu/files/content/docs/Michael%20Gerrard/NYLJ%205-14-20%20New%20Siting%20Law.pdf (stating that The Accelerated Renewable Energy Growth and Community Benefit Act provides that "the burdens of [] local laws must be considered in view of the goals of the New York climate law and the environmental benefits of the projects.").

106. This includes existing or abandoned commercial use sites, brownfields, landfills, dormant electric generating sites, and otherwise underutilized sites. *See* N.Y. PUB. SERV. LAW § 142(6) (McKinney 2026); Gerrard & McTiernan, *supra* note 105. *See generally* Alexandra B. Klass & Hannah Wiseman, *Repurposed Energy,* 109 MINN. L. REV. 219 (2024) (describing the ways in which underutilized or abandoned property can be repurposed for clean energy).

107. *Office of Renewable Energy Siting*, *supra* note 101.

ORES continues to modify the regulatory process. In October 2025, ORES released substantially revised regulations after receiving more than 2,000 public comments.[108] The revisions update the pre-application procedures, increase stakeholder engagement, and transition all references from environmental justice to disadvantaged communities in compliance with the CLCPA.[109]

2. Illinois

In 2021, Illinois passed the Climate and Equitable Jobs Act (CEJA), declaring a policy of transition to "100% clean energy by 2050" with new goals for renewable energy procurement.[110] To reach this goal for the power sector, CEJA requires electric generating units and large greenhouse gas (GHG) emitting units to eliminate emissions on a phased schedule and shift to clean energy sources, with renewable targets of 40% by 2030 and 50% by 2040.[111] Consideration for environmental justice communities "where residents have historically been subject to disproportionate burdens of pollution, including pollution of the energy sector," is included across numerous parts of the legislation.[112] This consideration expands upon other Illinois law and policy elevating environmental justice as a priority in various contexts, including permitting, environmental review and enforcement, and land use.[113]

CEJA set forth new community designations[114] and workforce incentives and standards to pursue a comprehensive approach to a clean energy transition for the

108. Press Release, N.Y. State Dep't of Pub. Serv., Revised RAPID Act Regulations Designed to Speed Development of Renewable Energy Projects Released for Public Comment (Oct. 22, 2025), https://dps.ny.gov/news/revised-rapid-act-regulations-designed-speed-development-renewable-energy-projects-released.

109. *Id*.

110. 2021 Ill. Laws 102-0662, §§ 90-30, 90-55 (amending 20 ILL. COMP. STAT. ANN. 3855/1-5 (LexisNexis 2025) and 415 ILL. COMP. STAT. ANN. 5/3.131, 9.15 (LexisNexis 2025)) (including interim greenhouse gas reduction targets for the power sector). Renewable energy targets updated the state's existing renewable portfolio standard. *See* 20 ILL. COMP. STAT. 3855/1-75 (LexisNexis 2025). *See also Long-Term Renewable Resources Procurement Plan*, Ill. Power Agency, https://ipa.illinois.gov/renewable-resources/long-term-plan.html (last visited Nov. 1, 2025) (indicating that the 2026 plan is currently under development).

111. 2021 Ill. Laws 102-0662, § 90-55 (adding 415 ILL. COMP. STAT. ANN. 5/9.15 (LexisNexis 2025)) ("'[e]lectric generating unit' [is defined as] a fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system that serves a generator that has a nameplate capacity greater than 25 MW[] and produces electricity for sale.'); *id*. ("'large GHG-emitting unit' means a unit that is an electric generating unit or other fossil fuel-fired unit that itself has a nameplate capacity or serves a generator that has a nameplate capacity greater than 25 MW[] and that produces electricity, including, but not limited to, coal-fired, coal-derived, oil-fired, natural gas-fired, and cogeneration units.").

112. 2021 Ill. Laws 102-0662, § 5-5 (as codified in 20 ILL. COMP. STATE. ANN. 730/5-5 (LexisNexis 2025)).

113. For a helpful summary of environmental justice law and policy in Illinois, see *How Illinois is Addressing Environmental Justice*, ENV'T JUST. STATE BY STATE (last updated June 27, 2023), https://ejstatebystate.org/directory/illinois.

114. These include equity investment eligible communities and equity investment eligible persons. *See* 20 ILL. COMP. STAT. ANN. 730/5-5 ("'[e]quity investment eligible community' [is] the geographic area throughout Illinois which would most benefit from equitable investments by the State designed to combat discrimination and foster sustainable economic growth."); *id*. (''[e]quity investment eligible person' [is someone] who would most benefit from equitable investments by the State designed to combat discrimination and foster sustainable economic growth."). This population includes those who live in an equity investment eligible community, members of the foster care system, and formerly incarcerated persons. *Id*.

state. For example, it established the Energy Transition Assistance Fund providing up to $180 million annually for workforce development, contractor support, community grants, and administrative oversight.[115] The legislation acknowledged the challenges of local siting regulations directly, noting that "in many areas of this State, there has been strong opposition to the siting and construction of new utility-scale wind and solar generating facilities, which in turn has resulted in the denial of, or withdrawal of requests for, necessary approvals for some projects…."[116] CEJA responds to this with incentives for converting unused and soon to retire coal-fired power plants to renewable energy and energy storage facilities.[117] A complementary law, the Energy Transition Act, was adopted close in time to support development of community-scale solar projects that "promote community ownership and energy sovereignty."[118]

In 2023, new legislation, An Act Concerning Regulation,[119] specifically adjusted state-local dynamics for county-level zoning restrictions for commercial wind[120] and solar[121] facilities in Illinois.[122] Under the new law, counties are permitted to adopt standards for wind and solar projects, but they may not be more restrictive than state requirements.[123] Any county that establishes renewable energy standards must host at least one public hearing within sixty days of receiving a project application and make its siting decision within thirty days after the hearing.[124] The law encourages counties "to maximize community benefits"

---

115. 2021 Ill. Laws 102-0662, § 90-15 (adding 20 ILL. COMP. STAT. ANN. 605/605-1075 (LexisNexis 2025)).

116. 2021 Ill. Laws 102-0662, § 90-1(6).

117. *Id*. §90-1(9). The Prairie State Energy Campus has been central to this debate as it is one of the largest GHG emitters in the state. *See* Kevin Brehm et al, *Transition Opportunities for Prairie State Energy Campus*, ROCKY MOUNTAIN INST. (RMI), (Feb. 2021) https://rmi.org/wp-content/uploads/dlm_uploads/2021/02/rmi_prairie_state_policy_brief.pdf. The Sierra Club filed a lawsuit in 2023, later settled, alleging that the plant was operating without the requisite Clean Air Act permits which took on heightened importance following CEJAs new requirements. *See* Will Bauer, *Environmental Group and Metro East Coal Plant Agree to Dismiss Federal Lawsuit,* ST. LOUIS PUB. RADIO (Apr. 18, 2025), https://www.stlpr.org/law-order/2025-04-18/environmental-group-and-metro-east-coal-plant-agree-to-dismiss-federal-lawsuit.

118. 2021 Ill. Laws 102-0662, § 5-60(e) (as codified in 20 ILL. COMP. STATE. ANN. 730/5-60(e) (LexisNexis 2025)).

119. *See generally* 2023 Ill. Laws 102-1123.

120. 2023 Ill. Laws 102-1123, § 30(a) (codified as amended at 55 ILL. COMP. STAT. ANN. 5/5-12020(a) (LexisNexis 2025)) (including facilities that are 500 kW or greater in nameplate generating capacity).

121. 35 ILL. COMP. STAT. ANN. 200/10-720 (LexisNexis 2025) (including "any device or assembly of devices that is [] ground installed and [] uses solar energy from the sun for generating electricity for the primary purpose of wholesale or retail sale and not primarily for consumption on the property on which the [device(s)] reside.").

122. *See generally* 2023 Ill. Laws 102-1123.

123. The state mandates particular setbacks for both wind and solar facilities, prohibits sound restrictions that are more restrictive than the limitations established by the Illinois pollution control board, and prohibits project moratoria in areas zoned for agricultural or industrial uses. *See* 55 ILL. COMP. STAT. ANN. 5/5-12020(b), (e)(1), (e)(3), (f), (h) (LexisNexis 2025).

124. *Id*. at 5/5-12020(c).

by requiring developers to mitigate environmental harms related to erosion, stormwater runoff, and habitat disruption.[125]

In late 2025, the Illinois General Assembly passed the Clean and Reliable Grid Affordability Act which further built upon its siting reforms.[126] This law focuses on accelerating battery storage projects, among other things, and clarifying county level siting authority for solar farms in unincorporated areas. The law will take effect June 2026.

3. Michigan

In 2023, Michigan passed the Clean and Renewable Energy and Energy Waste Reduction Act (CRE Act) which requires electricity providers to establish a renewable energy credit portfolio of 60% by 2035 as well as a 100% clean energy portfolio by 2040.[127] This ambitious climate goal complemented recent efforts by Governor Gretchen Whitmer to improve the state's environmental justice record.[128]

To accelerate progress toward the state clean energy targets, the legislature enacted an optional state siting process for large renewable energy facilities.[129] Under the new law, the Michigan Public Service Commission is authorized to regulate solar facilities with a nameplate capacity of fifty MW or more, wind facilities of 100 MW or more, and energy storage facilities of fifty MW or more, under specific circumstances that reflect a rebalancing of state-local roles.[130]

---

125. *Id*. at 5/5-12020(r).

126. 2025 Ill. Laws 104-0458. *See also* Andrew Adams, *Lawmakers OK Sweeping Energy Reform Package that Governor Pledges to Sign,* CAP. NEWS ILL. (Oct. 30, 2025), https://capitolnewsillinois.com/news/lawmakers-ok-sweeping-energy-reform-package-that-governor-pledges-to-sign/?utm_campaign=Newsletter&utm_medium=email&_hsmi=387785650&utm_content=387785650&utm_source=hs_email.

127. 2023 Mich. Pub. Acts 235, § 28(1)(c); § 51(1)(a)-(b). *See also* MICH. COMP. LAWS ANN. § 460.1011(g)(*i*)(A)-(B) (West 2024) (defining a renewable energy resource as "a resource that naturally replenishes over a human, not a geological, time frame and that is ultimately derived from solar power, water power, or wind power. Renewable energy resource does not include petroleum, nuclear, natural gas, industrial waste, post-use polymers, tires, tire-derived fuel, plastic, or coal. A renewable energy resource comes from the sun or from thermal inertia of the earth and minimizes the output of toxic material in the conversion of the energy" including biomass, landfill gas, and methane digestion); MICH. COMP. LAWS ANN. § 460.1003(e),(i)(*i*)-(*ii*) (West 2024) (explaining that clean energy includes electricity generated without emitting GHGs (including nuclear energy), natural gas with a 90% effective rate in carbon capture, or other clean energy systems as designated by the Public Service Commission).

128. Mich. Reg. No. 2019-06 (Feb. 20, 2019) (creating Office of the Environmental Justice Public Advocate and Interagency Environmental Justice Response Team). For a summary of environmental justice law and policy in Michigan, see *How Michigan is Addressing Environmental Justice*, ENV'T JUST. STATE BY STATE, https://ejstatebystate.org/directory/michigan (last visited June 27, 2023).

129. 2023 Mich. Pub. Acts 233. For helpful summaries of the new law, see, e.g., SARAH MILLS, MADELEINE KROL & OLIVIA STOETZER, GRAHAM SUSTAINABILITY INST. CTR. FOR EMPOWERING COMMUNITIES, UNIV. OF MICH., WHAT LOCAL GOVERNMENTS SHOULD KNOW ABOUT MICHIGAN'S NEW RENEWABLE ENERGY SITING POLICIES (2025); *see also* Madeliene Krol, *What the New Renewable Energy Siting Legislation Means for Michigan Local Governments*, GRAHAM SUSTAINABILITY INST. CTR. FOR EMPOWERING COMMUNITIES, UNIV. OF MICH. (Mar. 14, 2025), https://graham.umich.edu/media/files/2025-03-14_PA-233-Overview-slide-deck.pdf.

130. 2023 Mich. Pub. Acts 233, § 222 (codified at MICH. COMP. LAWS ANN. § 460.1222 (West 2024)).

Prior to engaging the Commission, project applicants must consult with relevant localities that have enacted a Compatible Renewable Energy Ordinance (CREO) as defined in the law.[131] This consultation must include a series of meetings with elected officials and community members.[132] Upon receiving a complete application, the locality must approve or deny the application within one hundred and twenty days.[133] If a locality has a CREO, the applicant must adhere to its siting process.[134] The Commission's involvement is deferential to localities with a CREO in place, indicating willingness to work with and providing local guidance for applicants. The Commission may intervene, however, if the locality fails to provide timely notices, denies an application that complies with the CREO, or amends its zoning ordinance to include requirements that are more restrictive than those provided by statute.[135]

If a locality has not adopted a CREO, an applicant may choose to follow the locality's siting process, or the applicant may seek review and approval from the Commission.[136] The Commission will also review projects that cross multiple jurisdictions where there is inconsistency in CREO implementation.[137] Once an application is deemed complete, it must be approved or denied within one year.[138]

With this approach, Michigan's streamlined process imposes specific zoning requirements, with local governments retaining authority to review applications against compatible place-based nuances. The framework also encourages community engagement by mandating that applicants invest in the public participation process. Each application must include a one-time grant of up to $75,000 per affected locality to cover the costs of participating in proceedings to

131. MICH. COMP. LAWS ANN. § 460.1221(f) (West 2024) (explaining that a CREO is "an ordinance that provides for the development of energy facilities within the local unit of government, the requirements of which are no more restrictive than the provisions included in [Section 460.1226]. A local unit of government is considered not to have a compatible renewable energy ordinance if it has a moratorium on the development of energy facilities in effect within its jurisdiction.").

132. MICH. PUB. SERV. COMM'N, MPSC CERTIFICATE FOR SOLAR, ENERGY, WIND ENERGY, AND ENERGY STORAGE FACILITIES: APPLICATION FILING INSTRUCTIONS AND PROCEDURES 42-46 (Oct. 10, 2024), https://www.michigan.gov/mpsc/-/media/Project/Websites/mpsc/workgroups/2023-Energy-Legislation/Renewable-Energy-and-Energy-Storage-Siting/Application-Filing-Instructions-and-Procedures-10-10-24.pdf?rev=b930d68ccad94428a05e500d926dc074&hash=F106C3473DC6B7897C4B4D085DF31261 [hereinafter MPSC].

133. The parties may jointly agree to extend the deadline by up to 120 days. MICH. COMP. LAWS ANN. § 460.1223(b) (West 2024).

134. For a helpful flowchart illustrating this and other procedural features of the siting law, see *PA 233 Siting Certification Process Summary*, MICH. PUB. SERV. COMM'N, https://www.michigan.gov/mpsc/-/media/Project/Websites/mpsc/regulatory/facility-siting/ress/MPSC-RESS-Siting-Certification-Flowchart.pdf?rev=b91e19345e9845f9b5c4081cfe3c69aa&hash=3843D6B584078F22B13E463B65501B5A (last visited Apr. 30, 2026).

135. Mich. Comp. Laws Ann. § 460.1223(c)(i)-(iii) (West 2024).

136. *Id*. *See* TYLER AUGST ET AL., PLANNING & ZONING FOR SOLAR ENERGY SYSTEMS: A GUIDE FOR MICHIGAN LOCAL GOVERNMENTS 4 (2025) (summarizing new state permitting regime and outlining "the pros and cons for local governments considering whether to adopt a CREO, establish a workable ordinance, or stipulate that all large projects undergo the state-level process.").

137. MPSC, *supra* note 132, at 43.

138. MICH. COMP. LAWS ANN. § 460.1226(5) (West 2024).

contest the application for a siting certificate.[139] Further, each applicant must enter into a host community agreement with each affected locality at a rate of $2,000 per MW of nameplate capacity within the jurisdiction.[140] Funds must be allocated towards public safety and other infrastructure services.[141] If the locality refuses to accept the terms of the agreement following good-faith negotiations, the applicant may enter into a community benefits agreement with one or more community organizations that are situated within or serve the affected locality.[142]

Michigan's standards streamline development expectations and encourage renewable energy projects in localities that enact a CREO. The framework preserves local control over how to interact with the siting regime. The Commission's ability to intervene if localities enact moratoria or bans prevents obstructionism, ensuring that the state's clean energy goals are not unduly delayed by local resistance, but without guaranteeing approval in every instance.[143]

4. Massachusetts

In 2021, the Massachusetts legislature enacted An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy (2021 Climate Law) which requires net zero statewide GHG emissions by 2050.[144] The *Clean Energy and Climate Plan for 2050* estimates the state will need to generate approximately twenty-seven gigawatts (GW) of solar and twenty-four GW of wind resources to achieve its goals.[145] All emissions reductions programs must also "achieve required emissions reductions equitably and in a manner that protects low- and moderate-income persons and environmental justice populations."[146] For years, well before the 2021 Climate Law, Massachusetts has incorporated environmental justice into state law across permitting, environmental enforcement, and environmental review.[147]

---

139. This grant is capped at $150,000 across all affected localities. *Id.* § 460.1226(1).

140. MICH. COMP. LAWS ANN. § 460.1227(1) (West 2024).

141. *Id*.

142. Community benefits agreements may fund workforce development programs, environmental benefits, community improvements or other non-profit contributions. *Id*. § 460.1227(2)(a)-(d).

143. MPSC, *supra* note 132, at 42-43.

144. 2021 Mass. Acts ch. 8 (amending MASS. GEN. LAWS ANN. ch. 21N, § 3 (West 2021)).

145. MASS. EXEC. OFF. OF ENERGY & ENV'T AFFS., CLEAN ENERGY AND CLIMATE PLAN FOR 2050, at 24 (2022).

146. MASS. GEN. LAWS ANN. ch. 21N, § 6 (West 2021). *See also* Exec. Off. of Energy & Env't Affs., *Environmental Justice Populations in Massachusetts*, MASS.GOV, https://www.mass.gov/info-details/environmental-justice-populations-in-massachusetts#what-is-an-environmental-justice-population (last visited Dec. 1, 2025) ("an environmental justice population is a neighborhood where one or more of the following criteria are true: [(i)] the annual median household income is 65 percent or less of the statewide annual median household income, [(ii)] minorities make up 40 percent or more of the population, [(iii)] 25 percent or more of households identify as speaking English less than 'very well' [and (iv)] minorities make up 25 percent or more of the population and the annual median household income of the municipality in which the neighborhood is located does not exceed 150 percent of the statewide annual median household income.").

147. For a helpful summary of environmental justice law and policy in Massachusetts, see *How Massachusetts is Addressing Environmental Justice*, ENV'T JUST. STATE BY STATE (last updated June 27, 2023), https://ejstatebystate.org/directory/massachusetts.

In 2024, Massachusetts enacted An Act Promoting a Clean Energy Grid, Advancing Equity, and Protecting Ratepayers (2024 Climate Law), including comprehensive reforms for clean energy siting and permitting in the state.[148] The reforms are based on proposals from a state-level Commission on Energy Infrastructure and Permitting which was established by Governor Maura Healey to make recommendations on accelerating clean energy development with community input and equitable distribution of benefits.[149] The 2024 Climate Act required reforms to be implemented via regulation by March 2026, and authorized the Energy Facilities Siting Board (EFSB) to grant consolidated permits for small and large clean energy infrastructure facilities beginning in July 2026.[150] The siting reforms will require all large clean energy infrastructure facilities to obtain a permit that complies with regulations released as this article was preparing for press, establishing application procedures, methodology for determining the suitability of sites, and associated guidance.[151]

Once finalized, the state will apply regulations to govern consolidated local permitting, as well as standards and guidelines for community benefits plans and agreements, informed by a cumulative impacts analysis.[152] The new process is time-limited to a maximum of twelve months for small facilities and fifteen months for large facilities.[153] The specific timelines will depend on project complexity and whether local zoning exemptions are warranted.[154] The statute reads as more deferential to local governments with regard to small clean energy facilities but requires that uniform requirements be set forth by ESFB.[155] ESFB must hold a public hearing in at least one of the affected localities where a large facility will be located.[156]

State agencies are tasked with developing an energy dashboard to "accelerat[e] the responsible deployment of clean energy infrastructure through siting and permitting reform," encourage community participation, and ensure

148. 2024 Mass. Acts ch. 239.

149. 1506 Mass. Reg. No. 620 (Sept. 26, 2023).

150. 2024 Mass. Acts ch. 239, § 132. Small facilities include solar and wind facilities with a nameplate capacity of less than 25 MW or energy storage systems with a rated capacity of less than 100 MW hours. MASS. GEN. LAWS ANN. ch. 25A, § 21 (West 2025). Large facilities have a nameplate capacity of 25 MW or more or an energy storage system with a rated capacity of 100 MW hours or more. 2024 Mass. Acts ch. 239, §57.

151. As this article was going to press, some of the relevant regulations and guidance documents had been finalized and others were still in progress. *See* 980 Mass. Code Regs. 13.00 (2026); 225 Mass. Code Regs. 29.00 (2026). For the latest regulatory developments, including draft site suitability assessment guidance, see Mass. Exec. Off. of Energy and Env't Affs., *Energy Infrastructure Siting and Permitting Reforms*, MASS.GOV, https://www.mass.gov/info-details/energy-infrastructure-siting-and-permitting-reforms (last visited Apr. 30, 2026).

152. Mass. Dep't of Energy Res.: Clean Energy Siting and Permitting Div., *Clean Energy Siting and Permitting Regulations*, MASS.GOV, https://www.mass.gov/info-details/clean-energy-siting-permitting-regulations (last visited Dec. 1, 2026).

153. MASS. GEN. LAWS ANN. ch. 164, § 69T(i) (West 2026) (pertaining to large facilities); MASS GEN. LAWS ANN. ch. 164, § 69U(c) (West 2026) (pertaining to small facilities).

154. MASS. GEN. LAWS ANN. ch. 164, § 69T(i) (West 2026) (pertaining to large facilities); MASS GEN. LAWS ANN. ch. 164, § 69U(c) (West 2026) (pertaining to small facilities).

155. MASS. GEN. LAWS ANN. ch. 25A, § 6 (West 2025).

156. MASS. GEN. LAWS ANN. ch. 164, § 69T(g) (West 2026).

equitable outcomes.[157] The new law requires the Department of Public Utilities and ESFB to establish an Intervenor Support Fund be funded up to $3.5 million annually to increase public influence in the siting process.[158] This element recognizes that meaningful participation "requires substantial financial resources to do things like retain legal representation, expert witnesses, and consultants" due to the more stringent requirements for intervention compared to offering public comment.[159]

B. Early Implementation and Reactions

As each state proceeds with implementation, the contours of state-local dynamics for renewable energy siting continue to be refined. Although an account here cannot do justice to the nuances of that process in each state, there are a few common contextual considerations worth noting at this stage.

First, there have been efforts in each state to reverse the recent reforms and restore more local control. In New York, the first of the four to make major changes to the decisional structure for renewable energy land use, there have been at least five bills proposed to modify the RAPID Act to restore additional local oversight.[160] The new frameworks have given rise to some litigation.[161] ORES maintains a public record of applications and their status, which shows (as of this writing) over twenty-five applications approved and one application denied.[162] Prior to the new siting process, New York had only approved six projects within ten years.[163]

In Illinois, the Illinois State Association of Counties formed a Wind and Solar Facility Task Force, opposed the CEJA zoning mandates, and has called for more flexibility for counties than the law affords without asking for outright repeal.[164] The Task Force conducted a survey of twenty-six counties to assess the frequency

---

157. MASS. GEN. LAWS ANN. ch. 25, § 12N (West 2025).

158. 2024 Mass. Acts ch. 239, §§ 10, 82 (2024); 220 Mass. Code Regs. 34.00 (2026).

159. Jennifer Smith, *State Announces $3.5 Million Fund for Stakeholders to Intervene in the Utility Siting Process*, COMMONWEALTH BEACON (Dec. 17, 2024), https://commonwealthbeacon.org/energy/state-announces-3-5-million-fund-for-stakeholders-to-intervene-in-the-utility-siting-process/.

160. *See* S. 1385, 2025-2026 Leg., Reg, Sess. (N.Y. 2025); S. 2726, 2025-2026 Leg., Reg, Sess. (N.Y. 2025); S. 3671, 2025-2026 Leg., Reg, Sess. (N.Y. 2025); S. 5908, 2025-2026 Leg., Reg, Sess. (N.Y. 2025); S. 8519, 2025-2026 Leg., Reg, Sess. (N.Y. 2025).

161. *See, e.g.,* Town of Cambria v. N.Y. Off. of Renewable Energy Siting, 214 N.Y.S.3d 273 (N.Y. App. Div. 2024), *appeal denied*, 42 N.Y.3d 912 (2025). The Town brought suit against ORES for arbitrarily waiving its solar laws and failing to grant the Town full party status and an adjudicatory hearing. *Id*. at 276. The Court determined that the Town failed to offer evidence that there was a significant or substantive issue as to whether the project would result in environmental benefits or further help to achieve the Climate Act's zero emissions target. *Id*. at 277.

162. *ORES Permit Applications*, N.Y. STATE DEP'T OF PUB. SERV., https://dps.ny.gov/ores-permit-applications (last visited Dec. 1, 2025); *see also* Hecate Energy Columbia Cnty. 1 LLC, No. 21-02553, at 1 (N.Y. Off. of Renewable Energy Siting 2024) (reversing approval by administrative law judge and denying application for 60 MW solar energy facility without prejudice on appeal of Town of Copake).

163. Gerrard & McTiernan, *supra* note 105.

164. *See Wind and Solar Facility Law*, ILL. STATE ASS'N OF CNTYS., https://www.isacoil.org/wind-and-solar-facility-law/ (last visited Dec. 1, 2025).

of renewable energy project approvals and denials.[165] In April 2024, the Task Force reported four hundred solar projects and approximately twenty-five wind projects had been approved across one-half of the counties statewide with "fewer than 50 project denials" recorded.[166] The Task Force has introduced bills seeking to restore local control over certain aspects of wind and solar zoning it sees as necessary to ensure "counties have the authority and tools needed to protect residents, farmland, and local environments as renewable energy development expands" across the state.[167] These proposals include siting approval conditions and deconstruction plan assurances.[168] Separately, members of the General Assembly have introduced a bill to repeal a series of laws targeting the energy transition, including key provisions in CEJA.[169] One proposal, for example, seeks to remove all references to environmental justice and equity investment communities, commitments to transmission line development, and incentives for renewable energy development and workforce training.[170]

In Michigan, implementation of the CRE Act is currently in litigation. In 2024, seventy-seven localities filed a complaint challenging the Michigan Public Service Commission's interpretation of the CRE Act, arguing its implementing regulations unlawfully expand the Commission's powers with improper interpretations of CREOs and "affected local units."[171] They also allege that the Commission expanded the scope of regulated facilities to include co-located solar and storage facilities.[172] The Michigan Township Association has opposed the CRE Act and filed an amicus brief in the proceeding, as did the Michigan Association of Counties and the Michigan Farm Bureau, on behalf of their members.[173] These organizations (and others) challenge the PSC's interpretation and application of the CRE Act; as of this writing, the litigation remains pending and the outcome will likely clarify the contours of state and local authority over renewable energy projects under the law.[174]

---

165. *See generally* ILL. STATE ASS'N OF CNTYS WIND AND SOLAR FACILITY LAW TASK FORCE, SURVEY RESULTS SUMMARY (Apr. 5, 2024), https://www.isacoil.org/Resources/7508c6db-a161-4966-8205-c36007f706ef/Wind%20and%20Solar%20Facility%20Survey.pdf.

166. *Id*. at 1 (noting that not all approved projects are constructed).

167. *Wind and Solar Facility Law*, *supra* note 164.

168. H.B. 3563, 104th Gen. Assemb., Reg. Sess. (Ill. 2025).

169. H.B. 2633, 104th Gen. Assemb., Reg. Sess. (Ill. 2025); H.B. 4124, 104th Gen. Assemb., Reg. Sess. (Ill. 2025); H.B. 4050, 104th Gen. Assemb., Reg. Sess. (Ill. 2025); H.B. 2720, 104th Gen. Assemb., Reg. Sess. (Ill. 2025).

170. H.B. 4088, 104th Gen. Assemb., Reg. Sess. (Ill. 2025).

171. Almer Charter Twp. v. Mich. Pub. Serv. Comm'n, No. U-21547-0027, slip op. at 6-7 (Mich. Ct. App. Nov. 8, 2024), https://mi-psc.my.site.com/s/filing/a00cs00000I7158AAB/u215470027.

172. *Id*. slip op. at 7-8.

173. For a list of all amicus briefs filed see Matthew Eisenson, *Michigan Court of Appeals Considers Challenge to New Process for Siting Renewables*, COLUM. L. SCH.: COLUM. CLIMATE SCH. SABIN CTR. FOR CLIMATE CHANGE LAW: CLIMATE L. BLOG (Apr. 11, 2025), https://blogs.law.columbia.edu/climatechange/2025/04/11/michigan-court-of-appeals-considers-challenge-to-new-process-for-siting-renewables/.

174. Oral argument was held April 15, 2026. *See* In Re Implementing Provisions of Public Act 233 of 2023, No. 373259 (Mich. Ct. App. Apr. 15, 2026). Amicus briefs were filed in support of the PSC Order by

To date, none of these efforts to reverse or significantly alter the reformed siting frameworks has been successful. In Massachusetts, the scope and substantive details of the siting process continue to evolve as agencies promulgate regulations and incorporate feedback. Given the early stage, no significant backlash has been reported, although critiques have been submitted by the Massachusetts Municipal Association, for example, as part of the structured public engagement in the rulemaking process.[175]

Second, all four states have existing utility-scale renewable energy facilities, and each enacted the reforms in a unique context shaped by each state's geography, economy, population, and available energy resources. The Trump Administration's "multi-prong attack on renewable energy" complicates assessment of the efficacy of these states' siting reforms for facilitating new development, however.[176] From a shifting tax environment to targeted cancellations of projects, there are multiple factors other than land use and siting that are reshaping the renewable energy industry.[177] Although all four have 100% clean energy targets, the percentage of renewable energy generated in each state currently varies quite a bit. The Energy Information Administration's most recent reporting shows New York generates roughly a third of its electricity from renewables,[178] with Illinois generating 16%,[179] Michigan generating 12%,[180] and

numerous organizations, including energy and environmental organizations, property owners, and others. *See In Re Implementing Provisions of Public Act 233 of 2023: Case Information*, MICH. CTS., https://www.courts.michigan.gov/c/courts/coa/case/373259 (last visited Apr. 30, 2026).

175. *See, e.g.,* Adam Chapdelaine, *In letter to Clean Energy Siting and Permitting Division, the MMA Outlines Municipal Concerns Related to Draft Regulation for Solar, Wind and Battery Energy Storage*, MASS. MUN. ASS'N (Oct. 17, 2025), https://www.mma.org/advocacy/in-letter-to-clean-energy-siting-and-permitting-division-the-mma-outlines-municipal-concerns-related-to-draft-regulation-for-solar-wind-and-battery-energy-storage/.

176. Michael B. Gerrard, *Trump's Multi-Pronged Attack on Renewable Energy,* N.Y. L.J., Nov. 14, 2025, https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=5755&context=faculty_scholarship; *see also* Exec. Order No. 14154, 90 Fed. Reg. 8353 (Jan. 20, 2025); Exec. Order No. 14315, 90 Fed. Reg. 30821 (July 7, 2025).

177. *See* Gerrard, *supra* note 176; *see also* Exec. Order No. 14154, 90 Fed. Reg. 8353 (Jan. 20, 2025); Exec. Order No. 14315, 90 Fed. Reg. 30821 (July 7, 2025) (discussing wide range of anti-renewable strategies by the Trump Administration).

178. *New York: Analysis*, U.S. ENERGY INFO. ADMIN. (last updated Feb. 19, 2026), https://www.eia.gov/states/NY/analysis. Cleanview Project Tracker provides a real-time database of renewable energy projects. *See* Michael Thomas, *New York Solar Farms*, CLEARVIEW (last updated Apr. 2026), https://cleanview.co/solar-farms/new-york (counting 716 solar farms, 86 of which were built in 2025, with operating capacity of 3,100 MW; Michael Thomas, *New York Wind Farms*, CLEARVIEW (last updated Apr. 2026), https://cleanview.co/wind-farms/new-york (counting 33 wind farms, with zero built in 2025, and total operating capacity of 2,868 MW).

179. *Illinois: Analysis*, U.S. ENERGY INFO. ADMIN. (last updated Oct. 16, 2025), https://www.eia.gov/states/il/analysis; *see also* Michael Thomas, *Illinois Solar Farms*, CLEARVIEW (last updated Apr. 2026), https://cleanview.co/solar-farms/illinois (counting 331 solar farms with operating capacity of 4,403 MW and 108 built in 2025); Michael Thomas, *Illinois Wind Farms*, CLEARVIEW (last updated Apr. 2026), https://cleanview.co/wind-farms/illinois (counting 58 wind farms with operating capacity of 8,661 MW and three built in 2025).

180. *Michigan: Analysis*, U.S. ENERGY INFO. ADMIN. (last updated Nov. 19, 2025), https://www.eia.gov/states/MI/analysis; *see also* Michael Thomas, *Michigan Solar Farms*, CLEARVIEW (last

Massachusetts generating 33%.[181] Notably, however, significant new renewable capacity has been added to the grid or begun construction in 2025,[182] and both Michigan and Massachusetts are among eleven states with enough new clean energy projects underway to more than double their operational clean energy portfolios.[183] New York recently approved a renewable energy plan for 5.5 GW of new renewable energy capacity from solar, wind, distributed energy storage, and utility-scale storage.[184] Illinois's newest legislation calls for over three GW of battery storage capacity by 2030.[185]

C. Synthesis of Reforms and Community Influence

Each of the four states discussed above takes a different approach to reallocating state and local roles in siting, but each has structurally attempted a balancing of state clean energy objectives and respect for local context. Several common themes can readily be observed:

- *Streamlining for common land use baselines:* A common theme across the states is streamlining through standard land use baselines for site suitability. These address a wide range of siting considerations that raise common issues for all projects (noise, flicker, height, lighting, safety, setbacks) as well as unique issues specific to particular sites based on land, surrounding properties, and other factors (e.g., wetlands protection, agricultural mitigation, remediation, buffer vegetation). These baselines inform developers of expectations, facilitating more favorable project proposals and avoiding the reinvent-the-wheel cycle for each locality considering

---

updated Apr. 2026), https://cleanview.co/solar-farms/michigan (counting 72 solar farms, with 9 built in 2025, and total operating capacity of 2,317 MW); Michael Thomas, *Michigan Wind Farms*, CLEARVIEW (last updated Apr. 2026), https://cleanview.co/wind-farms/michigan (counting 34 wind farms, zero built in 2025, with total operating capacity of 3,777 MW).

181. *Massachusetts: Analysis*, U.S. ENERGY INFO ADMIN. (last updated Jan. 15, 2026), https://www.eia.gov/states/MA/analysis; *see also* Michael Thomas, *Massachusetts Solar Farms*, CLEARVIEW (last updated Apr. 2026), https://cleanview.co/solar-farms/massachusetts (counting 551 solar farms, with 12 built in 2025 and total operating capacity of 1,486 MW); Michael Thomas, *Massachusetts Wind Farms*, CLEARVIEW (last updated Apr. 2026), https://cleanview.co/wind-farms/massachusetts (counting 20 wind farms, zero built in 2025, and total operating capacity of 100 MW).

182. *U.S. Developers Report Half of New Electric Generating Capacity Will Come from Solar*, U.S. ENERGY INFO. ADMIN. (Aug. 20, 2025), https://www.eia.gov/todayinenergy/detail.php?id=65964 (reporting 12 GW of new utility-scale solar capacity added in the first half of 2025, and another 21 GW planned before the end of the year, with battery storage, wind and has plants accounting for the remaining additions for the year).

183. *See generally* AM. CLEAN POWER ASS'N, CLEAN POWER QUARTERLY MARKET REPORT (Q3 ed., 2025), https://cleanpower.org/resources/clean-power-quarterly-market-report-q3-2025-public/.

184. N.Y. POWER AUTH., NYPA RENEWABLES UPDATED STRATEGIC PLAN 4, 47 (Dec. 9, 2025), https://www.nypa.gov/renewables. The NYPA is subject to the same siting processes as other developers. *Id*. at 24. This ambitious plan reflects a reduced target from one issued in July, due to policy and market changes. Ethan Howland, *NYPA Adopts 5.5-GW Renewables Plan Amid Concerns Over Affordability, Policy Changes,* UTILITYDIVE (Dec. 10, 2025), https://www.utilitydive.com/news/nypa-renewable-energy-plan/807542/.

185. *See* 2025 Ill. Laws 104-0458(f). For helpful summary of key provisions, see Jim Chilsen, *CUB Applauds Passage of the Clean and Reliable Grid Affordability (CRGA) Act*, CITIZEN UTIL. BD. (Oct. 30, 2025), https://www.citizensutilityboard.org/blog/2025/10/30/cub-applauds-passage-of-the-clean-and-reliable-grid-affordability-crga-act/.

an application for the first time. Baselines can also preemptively mitigate the concerns most likely to arise by addressing how they will be resolved to protect surrounding properties.

- *Community influence via supplementary place-based land use restrictions (but barring bans and de facto bans):* Notwithstanding common land use baselines, all four states afford localities the ability to enact supplementary place-based land use restrictions so long as they do not create the effect of a de facto ban. New York, the furthest along in implementation, adopted streamlined siting with the strongest state authority. Thus far, Massachusetts is taking a similar approach. Yet even in New York, place-based land use restrictions are permissible if they are not unreasonable – a qualifier subject to interpretations but preserving space for community preference and knowledge of local conditions and needs. The new siting regimes in Illinois and Michigan are structured to allow local authority but prevent overly restrictive local rules. In Michigan, the law streamlines in part by encouraging localities to affirmatively interact with the statutory framework with a locally adopted CREO, to guide renewable energy development in line with community input and local governance. Under the Illinois regime, localities retain control over the siting process but must comply with minimum statewide zoning requirements.
- *Structure for state-local dialogue and coordinated project assessment:* Each of the siting reforms allows local governments to review individual project proposals and assess whether they comply with the common baselines and supplementary land use regulations. Although no two are identically designed, the project review process within each state creates a coordinated framework that facilitates structured dialogue between the local and state level. State agencies may preempt local decisions in limited circumstances but provide local governments the opportunity to request site-specific conditions, including host community benefits that address local concerns.
- *Structured developer responsibilities and community benefits:* Most states require developers to engage in community outreach and provide benefits for the community at large, rather than only for the landowners benefiting from contacts for renewable development on their property. Three of the four states (all but Illinois) expressly encourage or require community benefit plans or agreements (CBA).[186] CBAs have long been available tools and are not innovations of these states. Although aspects of the agreements remain the subject of debate, the focus on community

186. The law in Illinois links community benefits to environmental protections including vegetative ground cover and vegetation management plans. *See* 55 ILL. COMP. STAT. ANN. 5/5-12020(r) (West 2025). For helpful general discussion of community benefit plans, community benefit agreements, and how they differ, see Marisa Sotologo, *Energy Justice in Community Benefit Agreements and Plans*, INITIATIVE FOR ENERGY JUST. (Jun 26, 2024), https://iejusa.org/energy-justice-in-community-benefit-agreements-and-plans/.

benefits in the reforms, whether as formal CBAs or otherwise, enhances community influence in siting.[187]

- *Funding for community influence in multiple modes:* The state reforms create funding mechanisms to support community influence in the siting process in a variety of ways. The intervenor fund established in New York provides financial support for legal participation at the community scale, and Massachusetts' fund will do so once regulations are finalized. Michigan's grant to cover a locality's cost to contest an application is another model.
- *Streamlining application procedures and timetables:* All four states have adopted uniform application procedures and time-frames designed to move the review process forward toward approval or disapproval of proposal. This has the effect of creating predictability and cost-savings for developers by preventing delays and, combined with prohibitions on bans, increasing the pace of project development, in line with state energy goals.

Reactions to these reforms at the local level across the four states are, as noted above, understandably and unsurprisingly mixed. Taken together, however, the themes spanning these reforms suggest the states undertook a deliberate approach to restructuring local-state authority over siting to retain a substantive local role. There are likely aspects of the reforms that can be improved over time to enhance community influence in ways that do not impede well-sited clean energy projects. Realistically, no law can be drafted to anticipate every situation and factor relevant to place-based decision-making, which is why community *influence* on state-level decisions is so important to siting clean energy well. These four states have attempted to integrate expediency *and* local engagement into statutory frameworks to fulfil statewide clean energy targets adopted through the democratic process.

Future state-by-state research can assess more fully how well the reformed frameworks preserve community influence, short of local control, to achieve place-appropriate siting on an accelerated timetable, project by project. The process may work better, in practice, in one community and less well in another. The reforms are promising, however, as models for rebalancing authority while preserving space for community voices to be more than heard, and actually inform project decisions. Indeed, similar structured approaches would well be considered not just in relation to renewable energy but in the broader context of energy siting to elevate local insights and concerns. These reforms could be adapted beyond the renewable energy context to increase community influence in other contexts. Any one of these approaches would undoubtedly be preferable, from a local perspective, compared to common state and federal siting regimes for major fossil energy infrastructure.

---

187. *See, e.g.,* Vicki Been, *Community Benefits Agreements: A New Local Government Tool or Another Variation on the Exactions Theme?,* 77 U. CHI. L. REV. 5 (2010) (discussing use in other contexts); Matthew Eisenson & Romany M. Webb, *Expert Insights on Best Practices for Community Benefits Agreements*, COLUM. L. SCH.: COLUM CLIMATE SCH. SABIN CTR. FOR CLIMATE CHANGE L., Sep. 2023, at 1.

V. CONCLUSION

A decade ago, surveying growth trends in renewable energy across the states did not support the notion that local authority over energy siting was a barrier to rapid development.[188] Today, nationwide data suggests local opposition combined with local control increasingly hinders renewable energy as localities grapple with conflicting community preferences, misinformation, increased political division, and eroding civility in the public discourse. At the same time, it is important to remember that localities have been and continue to be important drivers of clean energy policy in the U.S., including in rural areas, and some will be supported to site new projects well by the new regimes. Commonly, when a project is approved or rejected at the local level, there are people in that community who supported the other outcome – consensus around energy infrastructure development is hard to come by.[189] For these reasons, state energy policies that implicate land use may depend on restructuring state-local authority.

Each state considered presents a model for reform that limits but still seeks to preserve community influence on development aligned with state energy priorities. To the extent energy democracy is a key element of energy justice, these reforms suggest energy democracy values may be best served by understanding them as spanning both the local and state levels. Further, the research suggests respect for community influence is more pronounced in the context of renewable energy than it is for fossil energy and other controversial projects, even under the streamlined regimes. The recent reforms studied here suggest there is a higher degree of state-local exchange over energy siting decisions for newer – and cleaner – facilities in ways that contrast significantly from common approaches to siting facilities which may pose serious environmental harms to host communities.

The notion of energy system transformation as a central energy justice objective links the transition to clean energy with a shift toward more effective and deliberate local engagement. This is critical for clean energy given that, as we have stressed, some sites *are* inappropriate for development. Recognizing this often depends on community knowledge. This shift is equally if not even more relevant, however, to projects with potentially harmful environmental and health effects on host communities. As calls for "permitting reform" grow louder and more expansive in their reach, the structural reforms in the four states studied here suggest models for preserving community influence that could improve siting for other energy infrastructure, whether traditionally sited with or without local control.

---

188. *See, e.g.*, ENV'T L. INST., STATE ENABLING LEGISLATION FOR COMMERCIAL-SCALE WIND POWER SITING AND THE LOCAL GOVERNMENT ROLE (2011) (finding the most common state approaches to wind siting were the most locally empowering).

189. For a recent example, see, e.g., Katiann M. Kowalski, *This Ohio County Banned Wind and Solar. Now, Residents are Pushing Back.*, CANARY MEDIA (Nov. 18, 2025), https://www.canarymedia.com/articles/clean-energy/richland-ohio-wind-solar-ban-vote (describing how, in Richland County, Ohio, after county commissioners voted this summer to bar solar and wind projects, "[a]lmost immediately, residents formed a group called the Richland County Citizens for Property Rights and Job Development to try and reverse the stricture. . . . collecting enough signatures to put the issue on the ballot" in the form of "a referendum that could ultimate reverse the ban.").

Appendix: Features of State Reforms[190]

Feature	New York	Illinois	Michigan	Massachusetts
Legislative Framework & Goals	Climate Leadership and Community Protection Act (CLCPA 2019) (2040 zero emissions target); Accelerated Renewable Energy Growth and Community Benefit Act (2020); Renewable Action through Project Interconnection and Deployment Act (RAPID Act 2024) expanded ORES's scope.	Climate and Equitable Jobs Act (CEJA, 2021): zero carbon emissions by 2050 with workforce and community incentives; An Act Concerning Regulation, Public Act 102-1123 (2023); Clean and Reliable Grid Affordability Act (CRGA, 2025).	Clean and Renewable Energy and Energy Waste Reduction Act (CRE Act, 2023): 60% "renewable" by 2035, 100% "clean" by 2040.	Roadmap for Climate Policy (2021 Climate Law): Net zero by 2050, with large requirements for solar and wind capacity; An Act Promoting a Clean Energy Grid, Advancing Equity, and Protecting Ratepayers (2024 Climate Law).
Siting Authority	Office of Renewable Energy Siting (ORES) within Department of Public Service. Consolidated permitting for projects ≥25 MW including major electric transmission (MET).	Local governments retain control but must comply with statewide zoning thresholds; counties hold public hearings.	Public Service Commission regulates projects ≥50 MW solar, ≥100 MW wind, ≥50 MW battery. Voluntary process with CREO local ordinances.	Energy Facilities Siting Board (EFSB) grants consolidated permits starting March 2026 for small and large clean energy projects.
Scope of Projects Covered	Renewable projects ≥25	Commercial wind and solar facilities	Large solar, wind, and storage	Both small (<25 MW for wind and solar and <100

190. See discussion *supra* Section IV.A. for citations to the referenced statutes and corresponding provisions.

Feature	New York	Illinois	Michigan	Massachusetts
	MW; includes MET.	subject to county zoning ordinances and state standards.	projects per capacity thresholds.	MW hours for energy storage) and large (≥25 MW for wind and solar and ≥100 MW hours for energy storage) clean energy infrastructure facilities.
Local Government Role & Autonomy	Local review required; public statements on compliance mandatory; local laws can be overridden if they unreasonably burden clean energy goals; local benefits and community engagement mandated.	Localities retain siting control but must meet state zoning standards; counties hold public hearings; local opposition ongoing.	Localities with CREO must be consulted and projects comply with local siting process; localities can reject but Commission may intervene in certain cases.	Local governments have greatest oversight over small facilities; must adhere to uniform standards; public hearings required.
Community Engagement / Public Participation	Mandatory public meeting 60 days prior to application; ORES provides technical guidebooks; public comments on draft permits; intervenor funding via application fees; host community benefits required.	Counties must hold at least one public hearing within 60 days of application; focus on community benefits for environmental mitigation.	Mandatory consultations with affected localities; mandatory financial support for local participation ($75,000 per locality grants; $2,000/MW host community agreements); community benefit agreements allowed.	Intervenor Support Grant program funded at up to $3.5 million annually; public hearings in at least one affected locality; regulations to enhance community participation forthcoming.

Feature	New York	Illinois	Michigan	Massachusetts
Permit/Approval Timelines	Final decision within 1 year (6 months if repurposed site); expedited procedures ongoing with updated regulations planned.	Siting decisions required within 30 days of public hearing.	Voluntary local processes may slow projects; Commission interventions possible for multi-jurisdiction projects with final decision within one year of application being deemed complete.	Maximum 12 months for small facilities, 15 months for large facilities, depending on complexity; implementing regulations under development.
State Preemption of Local Decisionmaking	Authorized but not required; ORES must apply local requirements unless they unreasonably burden renewable goals.	Limited; counties subject to state zoning thresholds but retain significant control.	Authorized but not required; Commission can intervene if localities deny compliant applications, fail to notify, or impose overly restrictive rules.	Uniform standards likely to override zoning exemptions for large facilities; authority rests with EFSB under new regime.
Financial & Workforce Incentives	Host community benefits include utility bill discounts and credits; funded by application fees; Intervenor fund of $1,000/MW.	Energy Transition Assistance Fund creates $187M+ annually for workforce development, community grants, and admin oversight.	Host community agreements provide payments for local infrastructure; financial support for local participant involvement mandated.	Intervenor Support Grant Program to fund public participation; focus on equitable outcomes and community benefits in regulations.
Challenges / Opposition	Balancing local autonomy with statewide zero emissions	Strong local opposition, especially from counties;	Complaints filed alleging Commission overreach;	Regulations still evolving; ongoing stakeholder feedback

Feature	New York	Illinois	Michigan	Massachusetts
	targets; contentious permit hearings; community concerns over impacts.	Illinois State Association of Counties opposes zoning mandates; bills proposed to repeal CEJA provisions.	opposition from township associations and farm bureaus; debates over rural community impacts.	incorporated; balancing expedited permitting with local oversight.