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## **Presentation on proposed RAPID Act for Stop Energy Sprawl**

With me tonight is Steve Helmin, a founding member of Stop Energy Sprawl. Stop Energy Sprawl is a coalition of community groups, municipalities, and elected officials from localities in New York State targeted by land-wasting large-scale wind & solar projects located far from where low-carbon electricity is needed.

We are here tonight to ask local officials to contact the Association of Towns and the Association of Counties and ask them to oppose Part O of Governor's Executive Budget. All of you who are not officials should write to your state Senator and Assemblyperson asking them to oppose Part O.

Part O proposes a new law called the RAPID Act. It would allow land to be taken by eminent domain for transmission infrastructure needed to utilize electricity generated by upstate wind and solar farms. Right now, that electricity remains in upstate service areas. There is no need for more electricity than we already have upstate. Currently, over 90% of our electricity is carbon-free owing to hydropower from the St. Lawrence River and Niagara Falls, and nuclear power from Rochester and Oswego. Wind and solar are no more than 8% of upstate electricity.<sup>1</sup>

Downstate electricity is the reverse: less than 10% is carbon-free, the rest is based on fossil fuels. The state energy plan requires 50% of all electricity statewide to come from renewables by 2030, six years from now. Independent energy analysis say this is impossible. The Midcontinent Independent System Operator (MISO) studied the prospects for renewables and concluded that no more than 50% of the grid could be powered by renewables without breaking the grid, and the cost of exceeding 30% would be difficult to bear.<sup>2</sup>

Where new solar and wind farms will be built is not governed by any law. Renewable energy developers decide where to site their projects, and the state approves their proposals. The proposals do not require any transmission capacity to actually utilize new sources of electricity.

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1 New York Independent System Operator (NYISO), POWER TRENDS 2023, Appx. Fig. 20, available at <<https://www.nyiso.com/documents/20142/2223020/2023-Power-Trends.pdf>>.

2 MISO, RENEWABLE INTEGRATION IMPACT ASSESSMENT REPORT (February 2021), available at <<https://cdn.misoenergy.org/RIIA%2520Summary%2520Report520051.pdf>>. MISO serves North and South Dakota, Minnesota, Wisconsin, Iowa, Illinois, Indiana, Michigan, Missouri, Kentucky, Arkansas, Louisiana, Mississippi, and Texas. Several states, including Texas, have utilities that are not a part of MISO.

The purpose of the RAPID Act, Part O of the Governor's budget, is to prevent towns and counties upstate from having any role in the siting of the new transmission lines required for the massive buildout of solar and wind farms already mandated under current law. Current law does not clearly eliminate home rule authority to say where new energy infrastructure should go, or whether it should be approved at all. Developers have gone to town board members to request setbacks, noise limits and other changes to local law that will accommodate their project plans. Often the developers lease land from local officials to make them "participants" in the solar farm or wind farm. Aside from the obvious conflicts of interest this causes, it shows that developers are reluctant to ask the state to waive local land use laws. They would much rather have towns change their local laws so they won't need to ask for that.

The RAPID Act would eliminate any authority of a town or county to limit or modify a developer's plans. The Act would specifically remove any role for towns or counties to have any say in where new transmission lines go. Using eminent domain, New York's Office of Renewable Energy Siting can take private land and municipal land to build any transmission lines needed for new wind and solar farms. The end result will be a proliferation of wind and solar farms anywhere, except the "open spaces and scenic beauty" of the Adirondacks and Catskill parks, which would be protected. Then later, the state will bid for transmission projects that could make the new wind and solar farms useful.

"Useful" is a relative term in this context. New transmission would make new wind and solar farms more useful, but they are not very useful with or without the help of new transmission. That's because they are intermittent, they operate at the whims of the weather, and are therefore unreliable. The intermittent character of renewables puts added strain on the electric grid by making electricity more variable throughout the day, and for days at a time, when clouds increase and wind decreases. It does this in two ways. First, fast-starting backup power plants that run on natural gas must be relied more. For example, a lull in the wind may occur for a few hours or even a few days. When that happens, power plants that can be started up on command will be ordered to do so.

Second, when the wind picks up, and sun shines steadily, fast-start power plants must return to idle. When that happens, wind and solar farms generate a surge that often exceeds the capacity of local transmission lines. To avoid dangerously heating up the lines and causing a local blackout, the grid operator orders them to stop generating.

All of this up-and-down power generation makes the grid unstable, threatening brownouts and blackouts. This is happening in California, which is ahead of New York in pursuing an all-renewables electric grid. In California,

rolling blackouts have become common.<sup>3</sup> Californians do not have reliable electricity, and currently they pay twice the national average for what they do get.<sup>4</sup>

It is important to understand that a massive overhaul of our transmission system would not be necessary if New York was not committed to decarbonizing its economy primarily with wind, solar, and batteries, and without any new nuclear power. This plan relies on upstate renewable energy, far from New York City, to be transmitted to New York City.

The RAPID Act is the latest effort to remove home rule in order to make our electric system more like California's. Before 2011, wind farms were built upstate only when a town board allowed it. Several wind farms were built during this period in western and central New York, and a large one on the Tug Hill Plateau in the North Country. In 2011, renewables developers and climate activists convinced the state to revive an old power plant siting law, PSL Article 10, in order to weaken home rule powers. Under Article 10, any provision of local land use or zoning laws can be waived if the developer convinces the state siting board that the local law is "unreasonably burdensome" on its project plans. Towns can appear in the Article 10 proceeding to defend the reasonability of their local laws.

The Article 10 siting board has been reluctant to waive local laws. In 2020, renewables developers and climate activists convinced former Governor Cuomo to put a new law into his Executive Budget that replaces the Article 10 siting board with a new Office of Renewable Siting, or ORES. Governor Hochul has continued Cuomo's practice of quietly tucking amendments into the annual budget. They do this to take advantage of the short timeline for debate and passage of the budget. Oversight, analysis, public debate and comments are very limited. It is a terrible venue for making dramatic changes that impact municipal authority, private property rights and utility access. But this is the way the RAPID Act is being introduced to Legislators. Few know about it. Few New Yorkers know about it.

Today ORES has authority only over the siting of wind farms and solar farms. The RAPID Act would give ORES the power to site new transmission lines, with eminent domain authority. Both renewable energy projects and transmission projects target forests and farmlands. These are "greenfields", relatively undeveloped land that is not polluted.

The contrast is with brownfields, land contaminated by industrial use. Brownfields are ironically relatively expensive because they are usually in or

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3 Vivienne Aguilar, "Here's how rolling blackouts work in California as heat wave boils region", *Sacramento Bee* (September 8, 2022), available at <<https://www.sacbee.com/news/california/article265387836.html>>.

4 U.S. Bureau of Labor Statistics, "Average energy prices for the United States, regions, census divisions, and selected metropolitan areas", available at <[https://www.bls.gov/regions/midwest/data/averageenergyprices\\_selectedareas\\_table.htm](https://www.bls.gov/regions/midwest/data/averageenergyprices_selectedareas_table.htm)> (2023-2024 data).

near an urban area. Greenfields are cheap land, by contrast. But we need farms for food, and we need forests for wood products and to reduce CO<sup>2</sup> in the atmosphere. Nobody yet has allowed a wind or solar farm's ability to reduce CO<sup>2</sup> to be evaluated in terms of the CO<sup>2</sup> reduction lost when forests are removed. The state does not care, it just wants to build solar and wind projects anywhere, and as many as possible. And the RAPID Act is meant to help accomplish that.

Before getting into the details of the Act, it is important to see how little large-scale wind and solar can contribute to efforts to slow down climate change. The largest wind farm approved in New York is the Alle-Catt project, with a 106 square mile project area. It requires the removal of 1,550 acres of mature forest, kills 41 bald eagles and tens of thousands of birds, bats and insects, which provide ecological services to farmers and gardeners.<sup>5</sup> According to its own analysis, this project would reduce emissions in the power sector by 0.01% — and the power sector is less than one-quarter of NY emissions.<sup>6</sup> NY emissions are a fraction of one percent of global emissions of CO<sub>2</sub>. For the last thirty years or so of renewables development in the U.S. and Europe, there is no evidence that CO<sup>2</sup> concentrations in the atmosphere have been affected.<sup>7</sup> Under current NY state policy, land on the order of a million acres must be developed for wind and solar farms.

Let's now hear from Steve Helmin on more of the RAPID Act details.

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5 PSC Case 17-F-0282, *Application of Alle-Catt Wind Energy LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 for a Proposed Wind Energy Project, Located in Allegany, Cattaraugus, and Wyoming Counties, New York, in the Towns of Arcade, Centerville, Farmersville, Freedom, and Rushford*, Recommended Decision of the Hearing Examiners (February 27, 2020). Based on the evidence considered in this proceeding, the Hearing Examiners found “the operational impacts of the Facility on bird mortality, in general, to be between 480 and 515 bird fatalities annually”, (75), including “six State-listed birds”, listed as threatened or endangered, (55-56, 84); at least 41 additional bald eagle fledglings (a seventh State-listed bird) will be killed by collision with moving wind turbine blades and nest failure over 30 years, attributed to one active nest within the project area, and there are “six other active breeding nests in close proximity”, (72-73); between 26,000 and 39,500 bats will be killed by the project over 30 years, including two species listed as threatened or endangered, (58-59, 65); the project would remove 1,550 acres of interior forest, (25-26, 29); and would fragment about 1,686 acres of unbroken forest that would remain of the “approximately 5,900 acres of interior forest in the Facility site”, (25); and “the presence of wind turbines may: displace grasslands birds from otherwise suitable habitat; decrease nesting success; and change foraging behavior”, including for the threatened Upland Sandpiper. 86. These findings are incorporated into the PSL Article 10 Siting Board's final decision.

6 PSC Case 17-F-0282, *Application of Alle-Catt Wind Energy LLC*, Application Exhibit 8, Appx.

7 See World Meteorological Organization, “Greenhouse gases”, available at <[https://jkk-code-otter.github.io/demo-dash/Dashboard/greenhouse\\_gases.html](https://jkk-code-otter.github.io/demo-dash/Dashboard/greenhouse_gases.html)>.