



# Procedural justice in wind facility siting: Recommendations for state-led siting processes

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## HIGHLIGHTS

- States have made wind energy development a priority.
- Local opposition to new projects could hinder future wind energy development.
- Procedural justice is necessary to resolve local issues and ensure timely wind facility siting.
- Both state- and county-led siting processes fall short with respect to criteria for procedural justice, though local processes have some advantages.
- States could instead induce counties, developers to engage in deliberation.

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## ABSTRACT

Evidence suggests that state control of wind facility siting decisions fosters new project development more effectively than local control, yet the literature suggests that affected citizens tend to be more fairly represented in local siting processes. We argue that successful renewable energy policy must satisfy both the need for new project development and the obligation to procedural justice. To suggest how it can do so, we analyze existing state- and county-level siting processes in Washington state, finding that both fall short on measures of procedural justice. To overcome this limitation and address the tension between procedural justice and project development, we then propose a collaborative governance approach to wind facility siting, in which state governments retain ultimate authority over permitting decisions but encourage and support local-level deliberations as the primary means of making those decisions. Such an approach, we argue, would be more just, facilitate wind development by addressing community concerns constructively and result in better projects through the input of diverse stakeholders.

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## 1. Introduction: State promotion of wind energy

States and municipalities have considerable incentive to promote energy development. Energy projects are seen both as part of the basic infrastructure that enables economic activity and as engines of economic growth. Stable, local sources of energy can help state governments assure industries located in (or considering locating in) the state a reliable source of energy sufficient to meet demand and avoid price volatility. In addition, states look to energy facilities as a source of tax revenue and employment for citizens.

Development of new renewable energy facilities in particular has been a major policy goal for governments at all levels because renewable energy provides local environmental and climate change benefits relative to fossil fuel-based energy facilities. Twenty-nine states and Washington, DC have adopted Renewable Energy Portfolio Standards (Wiser and Bolinger, 2012), which push the development of new energy facilities (Bird et al., 2005; Yin and Powers, 2010) by mandating that a certain percentage of new electricity generation come from renewable sources. To reach these goals, states are keen to see the development of wind power, which is the cheapest and the fastest growing renewable energy option (Wiser and Bolinger, 2012). The rapid development of wind power also allows states to claim to be leaders in developing a “green economy”.

Another approach that states including Oregon, Washington, and West Virginia have taken to encourage new wind development is the use of state facility siting processes. Processes in which

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states, rather than local governments, have authority over siting decisions have been argued to be more likely to result in expeditious development of wind resources. Legal scholar Ronald H. Rosenberg, for example, proposes a model in which a state-level agency reviews permit applications, takes public input, and ultimately decides whether a project is in “the public interest” as an “optimal” process for ensuring that permitting decisions reflect both relevant substantive information and stakeholder concerns (Rosenberg, 2008).

Empirical evidence suggests the value of state-led siting processes. In a regression analysis examining the effects of multiple factors on wind power development, Bohn and Lant (2009) show that the structure of siting decisions is the second only to state population in determining wind energy capacity. Specifically, states in which local governments have the ultimate authority for approving or rejecting siting permits have developed less wind energy capacity (all else being equal) than have states in which state governments make determinations on siting processes. The researchers attribute this effect to the limited opportunities for local opposition in state-run processes.

## 2. Procedural justice and local decision-making

Yet while wind energy facility development is seen as highly advantageous to state and local economies, it also has generated significant community opposition – and, as we discuss below, projects which have been permitted through simplified state siting processes have generated some of the strongest resistance. Although some local opposition is motivated by environmental concerns (see Saidur et al., 2011), community opposition to utility-scale wind energy installations most frequently focuses on its human effects (Abbott, 2010). Many residents of communities near wind farms allege that they suffer from nausea, headaches, insomnia, and other symptoms as a result of low frequency vibrations and the “strobe effect” produced by turbine blades moving across the sun (Knopper and Ollson, 2011; Pierpont, 2009). In addition, the respiratory effects of exhaust from construction vehicles are widely recognized. Finally, with wind turbines standing at 400 ft or more tall, a large wind farm can alter the esthetics and fundamentally change the feel of a community (Phadke, 2011).

Community opposition to wind energy is often cast disparagingly, as simply another example of the phenomenon known as “not in my backyard” (NIMBY). NIMBYs are said to have only parochial motives for opposing development and therefore are not considered worth taking seriously. Yet considerable research shows that NIMBY is too simplistic a way of understanding community opposition to wind power, arguing in particular that communities frequently are willing to support wind projects as long as they feel that their concerns have been heard and taken seriously in a fair siting process (Gross, 2007; Wolsink, 2000, 2007). To a large extent, then, community opposition to wind development can be understood as a demand for procedural justice.

Procedural justice refers to the ability of the people and communities whose environment and health stand to be affected by a siting decision (or other environmental policy action) to participate as equals in the decision-making process (Schlosberg, 2007). For participatory processes to be considered just, theorists suggest, they must meet several criteria. First, they must be accessible to affected parties – held after work rather than during the day, for example, in or near the community, and in language accessible to community members (Cole and Foster, 2001). Recognition is a further requirement of procedural justice: decision-makers need to acknowledge the legitimacy of community members’ participation and respect their input as an important and

relevant contribution to decision-making (Schlosberg, 2007). There must also be a reasonable possibility that public input could influence the outcome of a decision (Schlosberg, 2007). Finally, efforts must be made to address pre-existing power inequalities between participants (Guana, 1998; Schlosberg, 2007; Shrader-Frechette, 2002).

The specifics of how a decision-making process is structured have been shown to have a significant impact on the degree to which that process satisfies the conditions of procedural justice. In particular, deliberative processes, in which participants learn from one another in conversations focused on the common good, tend to be more just than pluralistic ones, in which each participant appeals to decision-makers on the basis of private interests without the opportunity for conversation with either decision-makers or other participants (Cole and Foster, 2001; Guana, 1998). In pluralistic processes, the interests of powerful stakeholders and those most fluent in the technocratic language preferred by regulators (especially scientists and engineers) tend to come across most strongly, and may drown out the concerns of the less-educated members of highly impacted minority and low-income communities. In contrast, because they are rooted in egalitarian principles, deliberative processes can help address power inequalities among participants and create the possibility for residents to participate on an equal footing with technically trained industry representatives.

In practice, the requirements of procedural justice – access, recognition, and potential for influence – are frequently not met by processes for making decisions with significant local impacts. Cole and Foster (2001), for example, document numerous ways in which communities of color were restricted from participating meaningfully in decisions about nearby hazardous waste sites. Similar issues have arisen in the siting of wind energy facilities, with case studies showing communities not being given adequate opportunities for deliberation, being asked to comment on what appears to be “a foregone conclusion”, and having their concerns reinterpreted in ways that limit the challenge they pose to proposed projects (Aitken et al., 2008; Gross, 2007).

The level at which decision-making occurs, further, seems to have consequences for procedural justice. Case studies show how decisions made beyond the local level can disadvantage the most affected communities, especially when governing bodies do not equitably represent them (geographically and/or demographically) (Cole and Foster, 2001), or when higher-level decision-makers have economic or other interests in a particular outcome (Roberts and Toffolon-Weiss, 2001). Local-level decision processes thus in general appear to be more conducive to procedural justice than processes run by state governments.

## 3. Wind development and procedural justice – Managing the tension

To summarize, previous research suggests that, in the case of wind farm siting, state-run processes facilitate development but likely at the expense of procedural justice, while county or city processes are more likely to meet the requirements of procedural justice, but at the expense of timely development of renewable energy. We question the premise that timely development and procedural justice are necessarily at odds. As community opposition to wind power grows and individual communities find support in anti-wind networks such as Industrial Wind Action ([www.windaction.org](http://www.windaction.org)), it becomes a potentially significant obstacle to future wind development. To the extent that affected communities are seeking procedural justice, fair decision-making processes should be seen as a cornerstone of timely wind development – not a hindrance to it. This paper seeks a constructive

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