



Large Scale Renewable Energy Siting

New York Planning Federation Conference
April 8, 2024

Office of Renewable Energy Siting

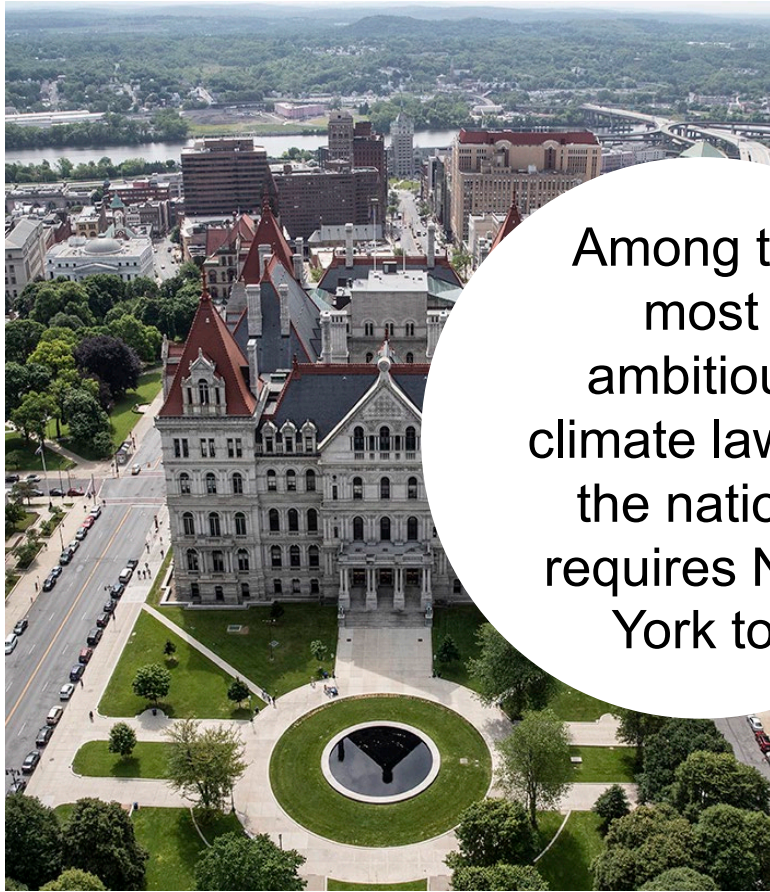
April 16, 2024

Agenda

- Introductions – Charles Voss, AICP
- The “CLCPA”
- ORES & Executive Law 94c Overview
- Comments/Questions?



2019 Climate Leadership and Community Protection Act



Among the most ambitious climate laws in the nation, requires New York to:



Reduce GHG emissions 40% from 1990 levels by 2030 and achieve net-zero emissions by 2050



Reach 70% renewable energy by 2030 and a fully carbon-free electricity system by 2040

Climate Leadership and Community Protection Act (CLCPA)

- Enacted on June 18, 2019, New York's Climate Leadership and Community Protection Act (CLCPA) establishes requirements and objectives for the advancement of renewable energy technology in New York State to combat climate change:
 - Minimum of 70% of Statewide electrical generation be produced by renewable systems by 2030;
 - Statewide electrical demand system will generate zero emissions by 2040;
 - Procurement of at least nine gigawatts of offshore wind electricity generation by 2035, six gigawatts of solar photovoltaic generation by 2035, and support of three gigawatts of statewide energy storage capacity by 2030 (currently).

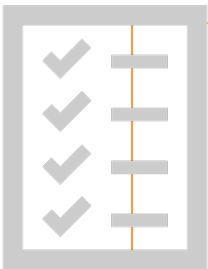


Accelerated Renewable Energy Growth and Community Benefit Act

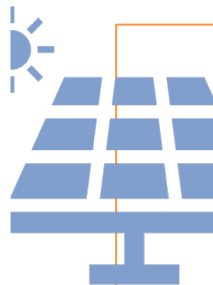
- Enacted on April 3, 2020, the Accelerated Renewable Energy Growth and Community Benefit Act supports the State's ambitious climate, energy, and environmental justice goals in the CLCPA.
- Establishes first-of-its-kind **Office of Renewable Energy Siting (ORES)** with a new renewable energy permitting framework at Executive Law § 94-c which:
 - Consolidates the environmental review and siting of all large-scale renewable energy projects.
 - Provides a single forum to ensure that siting decisions are predictable, responsible, and delivered in a timely manner, while ensuring the protection of the environment and consideration of all pertinent social, economic, and environmental factors, and providing opportunities for input from local communities.



Office of Renewable Energy Siting



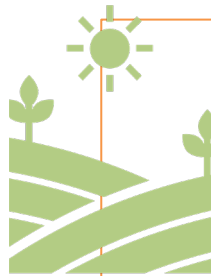
Established to meet the Climate Act's 70 by 30 goal



Streamlines the environmental review and siting of large-scale renewable energy projects



ORES has the authority to issue a single permit for the construction of large-scale renewable energy facilities from both a state and local law perspective.



Avoids, Minimizes and Mitigates to the maximum extent practicable impact to the host community and environment



ORES Permitting Authority



- **Any renewable energy system with a nameplate generating capacity of 25 megawatts or more including:**
 - Co-located battery energy storage system
 - Electric transmission facilities less than 10 miles in length
- **Any renewable energy system with a nameplate generating capacity of at least 20 megawatts but less than 25 megawatts may “opt-in.”**
- **Any existing project applications meeting the above thresholds in the initial stages of the Article 10 review process may elect to transfer into Executive Law § 94-c.**

All large-scale, renewable energy projects 25 MW or larger must obtain a siting permit from ORES for new construction or expansion under the Executive Law 94c regulations.



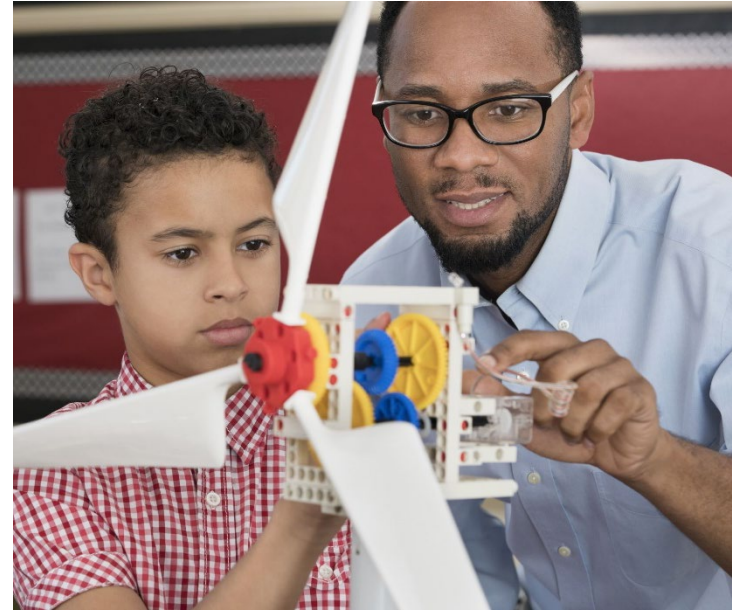
Since 2021...

- 16 permits have been granted, representing a total capacity of 2.4 gigawatts of renewable, clean energy
- Construction and maintenance will require 3,200 jobs
- Over \$280 million in payments has been committed to host communities through PILOT agreements and host community benefit payments



Community Benefits

- PILOT: Host community receives yearly payment and for reinvestment into the community;
- Employment: Construction jobs, some permanent;
- Host Community Agreements: Flexible, customized, locally retained benefits – can include additional payments beyond PILOTs, or other community priorities.



Local Agency Account Fund/Intervenor & Host Community Funding

- Local Agency Account Funds are available to eligible local agencies and community intervenors for use in contributing to a complete project record helping lead to an informed decision by the Office
- The fund enables local agencies and community intervenors to participate in the proceedings by allowing them to defray costs for expert witnesses, studies, consultants, attorneys, etc.
- **The Local Agency Account Fund is equal to \$1,000/MW of facility capacity**

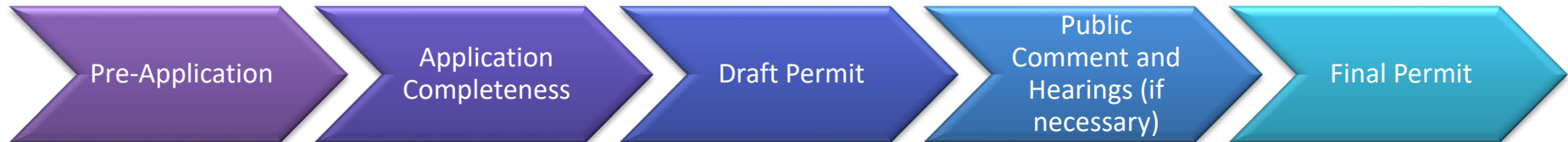


ORES Inter-Agency Cooperation



Permitting Timeline – One (1) Year

- Determine application completeness / incompleteness (60 days)
- Issue draft siting permit or notice of intent to deny for public comment (60 days following completeness determination)
- Public comment period followed by a public hearing on draft siting permit or notice of intent to deny (minimum 60 days from issuance of draft siting permit or notice of intent to deny)
- Issues Determination and possible adjudicatory hearings on significant and substantive issues
- Decision to approve or deny within one year of date of application completeness
 - Shorter (6-month) period for repurposed sites



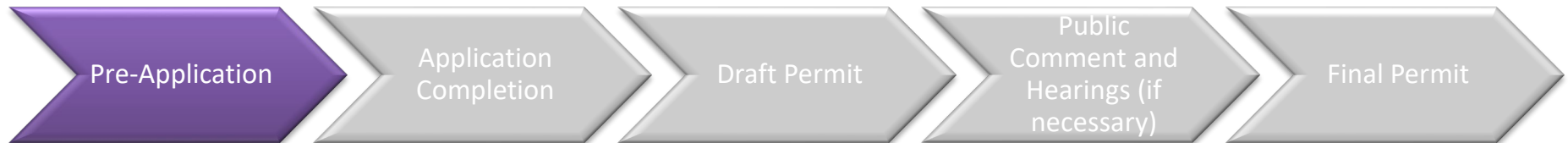
Pre-Application

Information Gathering: Applicant completes studies of the proposed facility and surrounding area to identify site constraints and any other issues that may impact the facility design.

Municipal Consultation: Applicants are required to consult with affected municipalities and local agencies to begin discussions regarding the proposed facility's compliance with local laws and whether waivers for any local laws may be required.

Public Meetings: Applicants must conduct at least one public meeting with community members. But are encouraged to conduct multiple public outreach meetings and activities.

Pre-App Presents Opportunities!



Applicants must also do:

- wetland delineations,
- threatened and endangered species studies, and
- archeological resource consultations

during the pre-app year leading up to submission.

Applicants are encouraged to review agricultural lands, **local laws, and conduct community outreach** during this time frame as well.



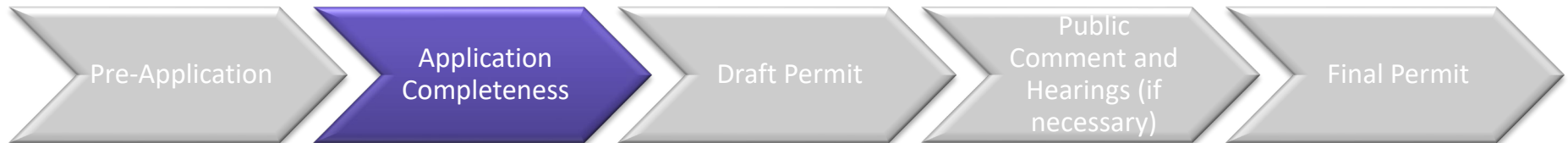
Application Submission and Completion

Application Submission: At least 60 days after the public meeting required during pre-app, the developer will submit an application to ORES containing 25 exhibits for review by ORES.

Intervenor Funding: Applicants must provide intervenor funding to enable municipalities and local communities to evaluate the proposed facility, hire consultants and experts, and participate fully in the process.

Public Availability: All application documents are made available on ORES's website.

Municipal Engagement Required: An application cannot be deemed **complete** until the developer submits proof of local consultation or the efforts to do so.

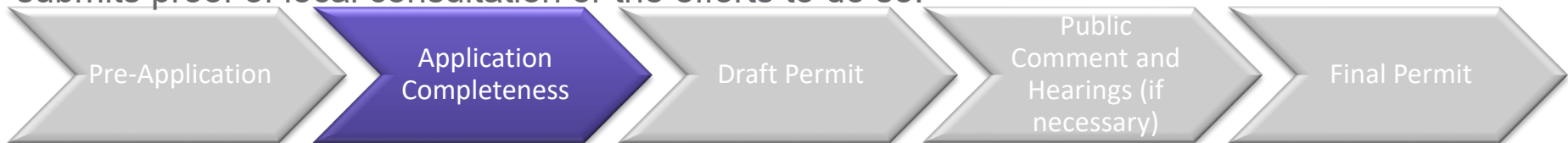


Application Review for Completeness

ORES reviews the Application and 25 exhibits for completeness and required information to make the necessary determinations within 60 days:

- Complies with 94C and its requirements
- Complies with State and Local Laws except those deemed to be **unreasonably burdensome**
- **Avoids, minimizes and mitigates** significant adverse environmental effects to the greatest extent practicable;
- Achieves a Net Conservation Benefit to any impacted T & E species
- Contributes to CLCPA targets

Review of Local Laws: an application cannot be deemed **complete** until the developer submits proof of local consultation or the efforts to do so.



Review of Exhibits

- Exhibit 1: General Requirements
- Exhibit 2: Overview and Public Involvement
- Exhibit 3: Location of Facilities and Surrounding Land Use
- Exhibit 4: Real Property
- Exhibit 5: Design Drawings
- Exhibit 6: Public Health, Safety and Security
- Exhibit 7: Noise and Vibration
- Exhibit 8: Visual Impacts
- Exhibit 9: Cultural Resources
- Exhibit 10: Geology, Seismology and Soils
- Exhibit 11: Terrestrial Ecology
- Exhibit 12: NYS Threatened or Endangered Species
- Exhibit 13: Water Resources and Aquatic Ecology
- Exhibit 14: Wetlands
- Exhibit 15: Agricultural Resources
- Exhibit 16: Effect of Transportation
- Exhibit 17: Consistency with Energy Planning Objectives
- Exhibit 18: Socioeconomic Effects
- Exhibit 19: Environmental Justice
- Exhibit 20: Effect of Communications
- Exhibit 21: Electric System Effects and Interconnection
- Exhibit 22: Electric and Magnetic Fields
- Exhibit 23: Site Restoration and Decommissioning
- Exhibit 24: Local Laws and Ordinances
- Exhibit 25: Other Permits and Approvals



© Short eared owl Photograph by James Morfitt, 2023

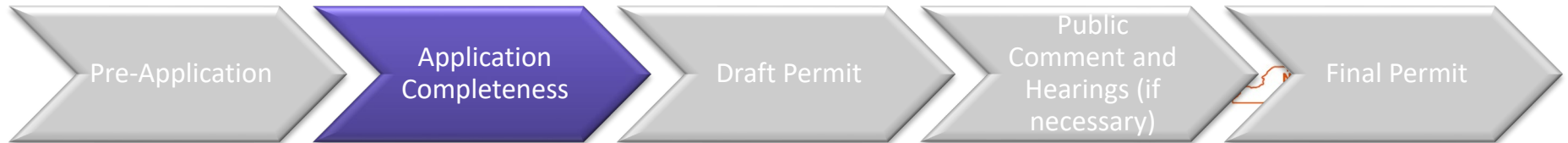


Office of Renewable
Energy Siting

Review of Local Laws (Exhibit 24): Relief requests of Local Laws requires a showing by the applicant that:

Local law is unreasonably burdensome in light of the CLCPA targets and Environmental benefits of the project

Relief requests based merely on convenience, cost, or Megawatt reduction will not be granted!

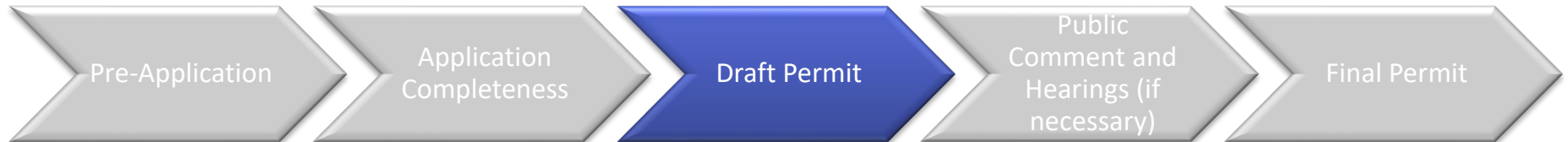


Draft Permit or Notice of Intent to Deny

Publication: ORES publishes the draft permit or notice of intent to deny for a public comment period of at least 60 days

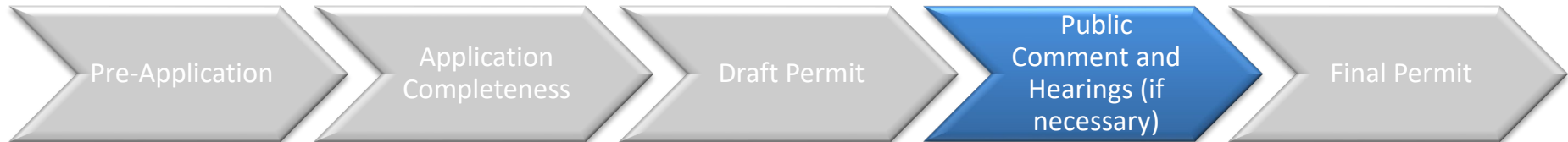
Municipal Statement of Local Law Compliance: Municipalities must submit a statement of local law compliance for any proposed facility no later than the date established in the combined notice of draft permit conditions and public comment hearing.

This statement can be submitted earlier for consideration when ORES determines whether an application is complete; when preparing a draft siting permit or notice of intent to deny; and during the hearing process on any draft siting permit.



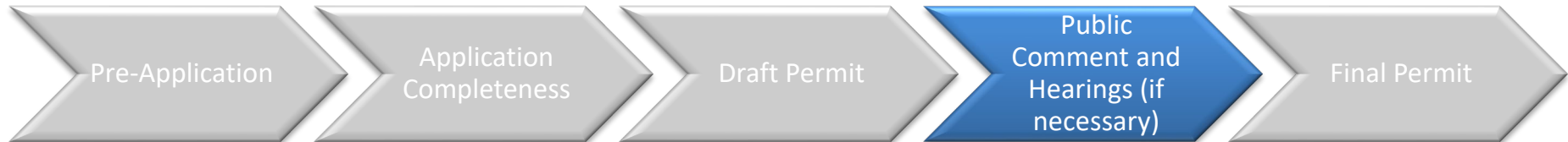
Public Comment and Hearings

- **Public Comment Period:** Public comments can be submitted for at least 60 days.
- **Public Hearing:** A public hearing on the draft siting permit or notice of intent deny at least 60 days after publication.
- **Consideration of Public Comments:** ORES issues a written summary of all public comments and an assessment of the comments received.
- **Hearings:** Municipalities and community groups are able to file for party status to raise substantive and significant legal or factual issues, including those related to local laws.



Adjudicatory Hearings

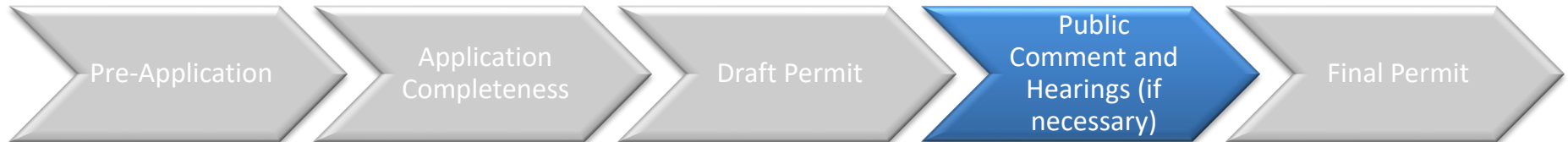
- Hearings:
 - **Legal issues are resolved as a matter of law**
- In order to raise an issue that requires an adjudicatory hearing, a potential party must make a factual showing of a substantive and significant issue through:
 - Facts that are contrary to what is in the application;
 - An omission in the application or draft permit; or
 - Defective information was used in the application or draft permit.



Adjudicatory Hearings

- **Potential parties carry the burden of persuasion**
 - Must carry that burden through an offer of proof from a qualified expert
 - With factual or scientific foundation
 - Mere speculation, expressions of concern, general criticism, or conclusory statements are not enough.

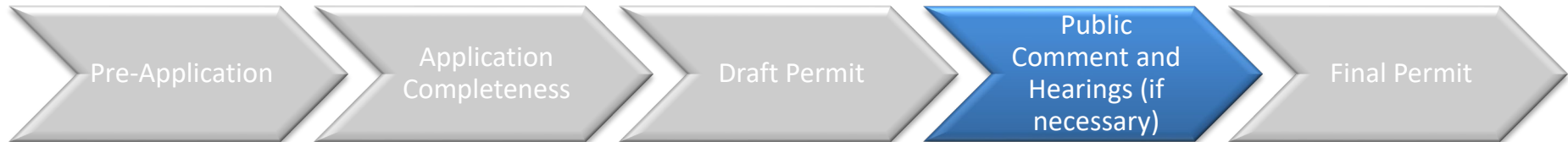
Part of the purpose of the intervenor funding is to allow meaningful participation throughout the adjudicatory process.



Adjudicatory Hearings

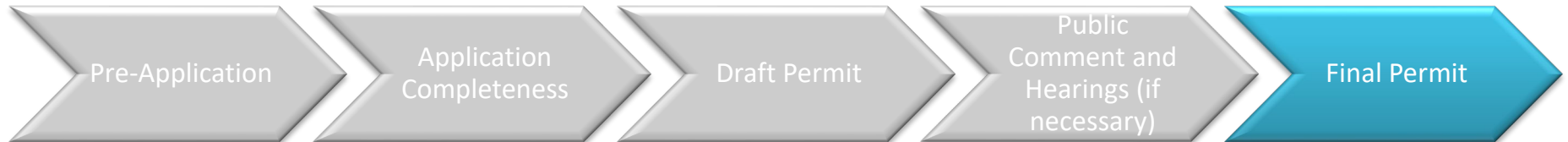
A municipality may raise issues regarding compliance with local laws as part of petition for party status together with an offer of proof prior to final determination on the permit.

- Any offer of proof may be rebutted by:
 - the application,
 - the draft permit and proposed conditions,
 - staff's analysis, or
 - the record of the issues determination procedure.



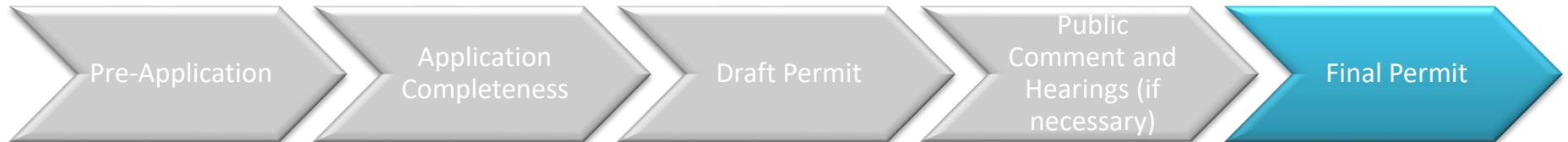
Final Determination

- **Following the Adjudicatory Hearing**, the ALJ issues a determination on all substantive and significant issues.
- The determination may be appealed to the Executive Director.
- **The Executive Director** makes the final decision and issues the Final Permit



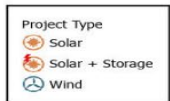
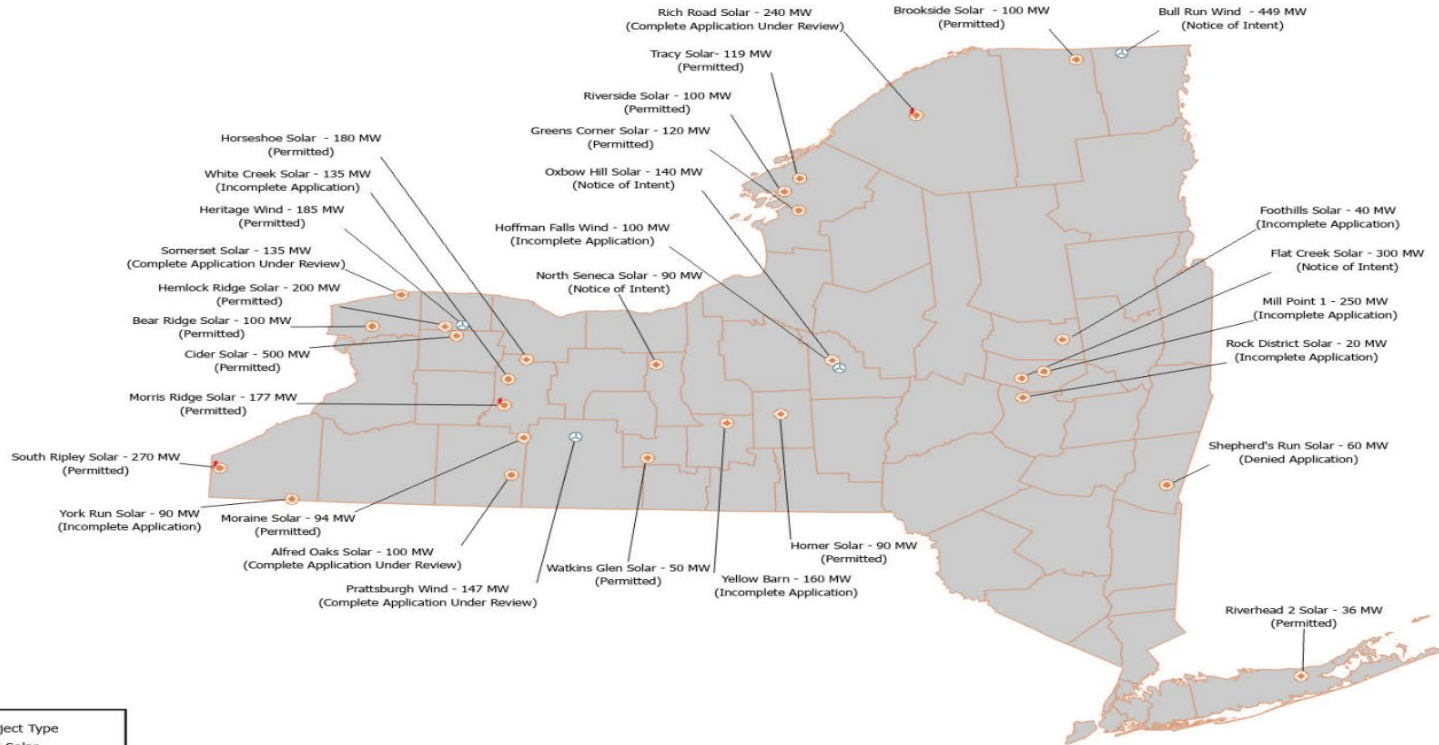
Final Permit and Construction

- **Compliance** with all permit conditions and requirements before and during construction
- **Host Community Benefit Agreements:** Any developer who receives a renewable energy siting permit from ORES will be required to enter into a host community benefit agreement with the host community or communities as a condition of the final permit.
- **PILOT agreements:** Project developers will provide annual payments to the community in the form of a PILOT agreement.



Office of Renewable Energy Siting (ORES)

Executive Law § 94-c Permit Application Status
(as of February 15, 2024)



Regulatory Accountability & Process Improvement Act - “RAPID”

- A legislative initiative in the Governor’s Executive Budget aimed at streamlining the regulatory process and enhance regulatory efficiency while ensuring transparency.
- The RAPID Act proposes to streamline the environmental review and permitting of major renewable energy generation and electric transmission facilities.
- It would centralize these efforts within the Office of Renewable Energy Siting at the Department of Public Service (DPS).
- The Act would create a “one-stop-shop” within ORES for permitting necessary to site both major renewable energy facilities and the major electric transmission facilities that support them.
- The Act mandates increased public participation by providing stakeholders with ample opportunities to voice concerns and provide feedback during the rulemaking process.



Key Takeaways for Local Municipalities

The development of a large-scale renewable wind or solar facility can be intimidating.

- Review and become familiar with the 94c Regulations and Process
- Apply for and utilize intervenor funding (Hire legal and technical consultants)
- Seek active participation with developers early on in the process, provide feedback on local law compliance, and work towards acceptable host community agreements
- Stay engaged in the permitting process and provide feedback to ORES
- Seek guidance from ORES and NYSERDA



Thank You! – Q&A

- For additional questions, please contact us at: General@ores.ny.gov
- <https://ores.ny.gov/>
- <https://www.nyscrda.ny.gov/All-Programs/Large-Scale-Renewables/>

