

MEMORANDUM

RE: Filing of Requests for Zoning Exemptions and Petitions to Construct Transmission Lines

FROM: Joan Foster Evans, General Counsel, Energy Facilities Siting Board

DATE: March 26, 2025

On November 20, 2024, Governor Healey signed into law climate legislation to empower the Commonwealth's fight against climate change and accelerate progress towards the state's goals of net zero greenhouse gas emissions by 2050. St. 2024, c. 239 ("2024 Grid Equity Act" or the "Act"). The 2024 Grid Equity Act incorporated new statutory provisions designed to accelerate clean energy development, improve energy affordability, create an equitable infrastructure siting process, allow for multistate clean energy procurements, promote non-gas heating, expand access to electric vehicles, and create jobs and support workers throughout the energy transition. St. 2024, c. 239.

The Act became effective February 18, 2025, although some sections of the Act relating to siting and permitting of energy projects will not go into effect until March 1, 2026. See St. 2024, c. 239, §§ 132, 139. The Act includes several provisions relating to the authority to grant zoning exemptions pursuant to G.L. c. 40A, § 3, which went into effect February 18, 2025.¹ The Department of Public Utilities ("Department") has had authority pursuant to G.L. c. 40A, § 3 to grant to public service corporations necessary exemptions from local zoning ordinances for lands and structures if the Department determined the exemptions were required and found that the present or proposed use of the land or structure was reasonably necessary for the convenience or welfare of the public. The Act changed local zoning exemption authority pursuant to G.L. c. 40A, § 3 in two respects: (1) it codified the definition of "public service corporation," St. 2024, c. 239, § 36;² and (2) it moved the authority to grant zoning exemptions from the Department to the Energy Facilities Siting Board ("Siting Board").³ St. 2024, c. 239, § 37.

¹ The Department has authority to grant exemptions from the City of Boston Zoning Code pursuant to St. 1956, c. 665, § 6. The 2024 Grid Equity Act moves the authority to grant exemptions from the City of Boston Zoning Code to the Siting Board on March 1, 2026. See St. 2024, c. 239, §§ 91, 139.

² The Siting Board notes that while the 2024 Grid Equity Act added a new statutory definition of "public service corporation," St. 2024, c. 239, § 36, it did not change the standard to be applied by the Siting Board in its review of zoning exemption requests. St. 2024, c. 239, § 37.

³ In past cases involving both Siting Board jurisdiction and a request to the Department for zoning exemptions, the Chair of the Department typically referred the Department zoning exemption request to the Siting Board for consolidated review and decision by the Siting Board, pursuant to G.L. c. 25, § 4.

On February 21, 2025, the Department issued an Order transferring existing petitions for zoning exemptions and related G.L. c. 164, § 72 petitions to the Siting Board for further review and decision.

Filing Requirements

As of February 18, 2025, all requests for zoning exemptions pursuant to G.L. c. 40A, § 3 should be filed with the Siting Board. Requests for zoning exemptions pursuant to St. 1956, c. 665, § 6, should be filed with the Department until March 1, 2026, after which time such exemption requests should be filed with the Siting Board.

Petitions to construct transmission lines pursuant to G.L. c. 164, § 72 should be filed with the Department until March 1, 2026. See St. 2024, c. 239, § 75. After March 1, 2026, G.L. c. 164, § 72 will be limited to requests for eminent domain authority, and project proponents will not be required to obtain G.L. c. 164, § 72 permission from either the Department or the Siting Board to provide “transmission services.” St. 2024, c. 239, § 75.

For those projects seeking both zoning exemptions and G.L. c. 164, § 72 authority prior to March 1, 2026, the Siting Board intends to review these proposed projects in an efficient and consolidated manner. The Department will transfer the G.L. c. 164, § 72 petition to the Siting Board, and the Siting Board will consolidate the zoning exemption and G.L. c. 164, § 72 petitions into one proceeding for review and decision. See 980 CMR 1.09(2).