

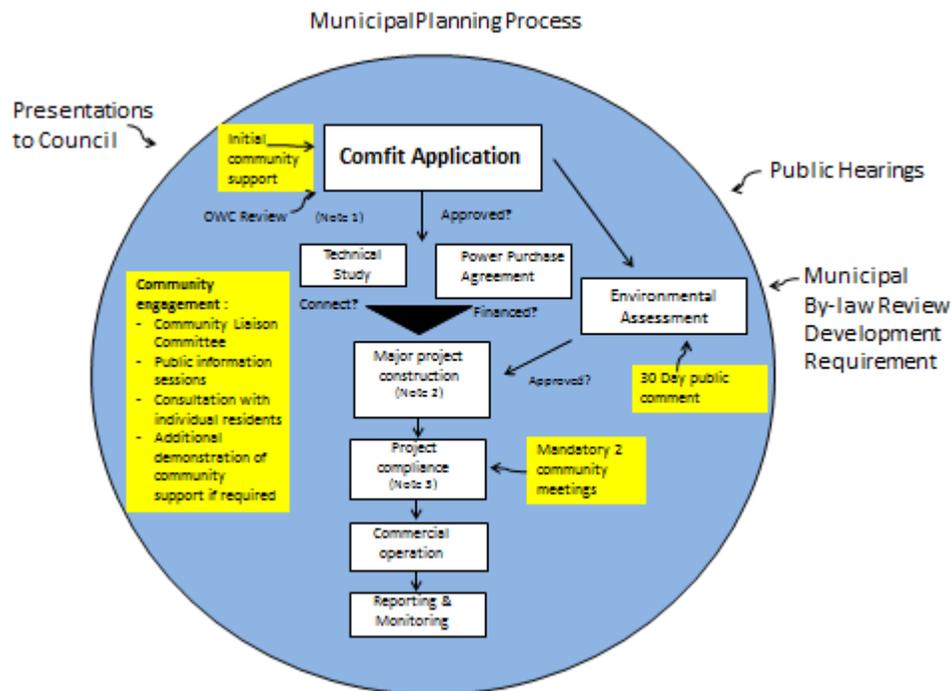
Community Support and Consultation for COMFIT Projects

Policy Context

The requirement for COMFIT project applicants to proactively demonstrate community support for their projects is a fundamental component of the COMFIT program. During consultations on the *Renewable Electricity Regulations*, which established the program, one of the key issues was the question – what defines community? At the time, there was wide spread acceptance that support should be established in a variety of ways to allow flexibility to respond to the differing circumstances of individual communities, and that community – particularly when used in the context of “community-ownership – also be broadly defined to enable eligible entities to access the capital required for their projects.

From this came two unique requirements for the COMFIT program: first, to ensure a measure of community support, it was established that twenty-five members of an organization must be from the municipality where the project is located; second, some additional evidence of community support should be part of the application process. This draft policy paper on Community Support and Consultation provides additional guidance on Community Support.

In addition to community support – the COMFIT Program considers that there are additional opportunities for community consultation on the project itself. This takes place in a number of ways both before and after approval. There are three key players involved in project implementation, local municipalities, Nova Scotia Environment and the Department of Energy. Each has its own role and process, and opportunity for public input. Together, they provide the framework for community engagement in project implementation.



Environmental Assessment

Under the provincial *Environment Act*, public comments are taken into consideration whenever an environmental assessment is required. The province's current Environmental Assessment Regulations have the following threshold for activities (referred to as undertakings) that require an environmental assessment:

Class 1 Energy

An energy generating facility, other than an emergency generator, that meets any one of the following:

- it has a production rating of at least 2 MW derived from wind, tides or waves;
- it has a production rating of at least 2 MW and no more than 25 MW derived from hydroelectricity, other than run-of-the-river facilities under 10 MW; and
- it has a daily fuel input rating of at least 4000 GJ and no more than 10 000 GJ derived from fuels other than fossil fuels, but excluding solar power.

For projects that require an EA may be raised during the 30-day public comment period". Under the *Environmental Assessment Regulations*, the results of all EA's are posted online. This is an important consideration for the COMFIT program as it provides the opportunity for applicants to address concerns through a regulated process. Nova Scotia Environment determines the potential impact, if any, of COMFIT projects on the local environment and human health.

Nova Scotia Environment makes the final decision regarding acceptable noise levels for wind turbines. Through the EA process, impacts to all local residents are assessed to ensure they meet health and safety standards set by Nova Scotia Environment. COMFIT wind projects must demonstrate that the project will not exceed 40dbA at the nearest noise receptor (eg. Home). Through the COMFIT review process, the Department may consider applying these standards to all projects, including those that do not meet Nova Scotia Environment's 2MW regulatory threshold. So while the province does not impose setback requirements on projects, it does enforce noise limits which have been shown to be one of the biggest impacts on human health.

Municipal Planning Process and Designations

While Provincial standards and requirements apply to all communities (ie. Turbines must not exceed 40 dbA at the nearest noise receptor) Nova Scotia's Municipalities make local decisions about how development should be conducted and where it should be conducted. In many ways a renewable energy project is no different than any one of a number of land use options that a municipality has to address. Decisions about how a wind turbine for example, will complement neighbourhood zoning or other requirements for setbacks are commonly issues dealt with by municipal planners – which is why the Province has determined that are best left to municipal decisions.

Therefore, an important aspect of determining community support is assessing the established local framework for renewable energy development, which includes municipal zoning and by-laws. A positive planning decision that designates land specifically as being where a renewable energy project should be located would be considered as building a compelling case for community support for a project in that

area. Also considered would be the more general case where a Municipality creates a by-law that sets parameters for renewable development. Municipal planning processes generally require a public hearing process which allows significant input by municipal residents. In this way municipal planning decisions express the views and support of a community for development to be conducted in a specific way. This does not mean that the project will not require additional community support, but it does mean that the case is already strong.

Department of Energy

The Department of Energy is responsible for processing applications to the COMFIT program. COMFIT approval enables applicants to both access the distribution grid and qualify for the feed-in-tariff issued by the Utility and Review Board. The Department of energy assesses overall project viability in terms of business plan and site access. A One Window Committee process acts to inform applicants of any potential permits or studies that may be required as their project is implemented. The Department also verifies that projects have complied with regulatory requirements.

The Department considers COMFIT approval to be a first step in the overall successful completion of a project. Essentially COMFIT approval gives applicants a contract for sale of energy, and a guaranteed price. There are numerous subsequent stages the project must go through prior to completion including community engagement. In some cases, studies required to fully define a project cannot occur until after the conditional COMFIT approval is given. Applicants and developers may wish to have all relevant information in hand before engaging communities; therefore an application may be approved with preliminary community support with the condition that subsequent community consultation is required once the project becomes more defined. Health and wildlife concerns are considerations of the Environmental Assessment, and setbacks are under the authority of the Municipality.

COMFIT approvals are conditional on holding at least two public consultation meetings. In many cases, this requirement is sufficient for the project to continue to completion (unless otherwise required for other regulatory requirements such a municipal bylaw). Where a community comes forward with concerns, as evidenced by a petition, the Department considers the threshold for the required engagement to have increased.

Current Situation

The program began accepting applications in September of 2011. Since that time more than 75 applications have been approved. As projects move through the development and community engagement process, some people are coming forward with questions and concerns regarding specific COMFIT projects. It has become clear that further guidance is needed both in terms of program definitions of “community” and “support” as well as community engagement expectations for program applicants. People need to know how their concerns are being heard through the process, and developers need some level of certainty they have met program requirements to move projects forward to commercial operation.

Through the process to date, the Department has received comment from local residents and developers on the community engagement process – the following provides a high level summary of what we have heard.

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Communities /Local Residents	Applicants
A wind test tower went up across the street from me – I had no idea what it was – no one consulted me or let me know what was going on	Putting up a wind tower is just the first step in choosing a potential site for a project. Widespread community engagement too early leads to distrust in the community – we don't have all the answers they are looking for and so communities think we are lying to them.
We are the one who have to live with these projects for the next 20 years – we should have a say in how/if they are developed	The Environmental Assessment and Grid Impact Studies can change where the project and turbines are located – people think we are lying when things change
I don't feel like my questions are being answered – they act like this is already a done deal.	We held public meetings and sent out flyers to local residents – but no one comes until the project is approved
I am concerned about the impacts to health and wildlife.	There is a lot of misinformation being spread about projects

Under the current process, community consultation is required for all COMFIT projects. As a condition of approval all applicants must hold at least two public consultation sessions. In areas where there is concern expressed, the Department expects that the level of engagement and number of meetings to increase. . When assessing community support for a project, the Department will consider the amount of community engagement that has been conducted by the applicant. In a number of cases; community liaison committees have been established to provide an opportunity for community members to provide input into the construction of the project.

The Department encourages applicants to respond to individual concern and to open a dialogue with local residents about reasonable concerns. However many developers choose to wait until they have gathered information before going out into the community. This reluctance is due to the fact that most site-scoping activities will not occur until technical studies are complete and the wind resource has been tested. EA results can change where turbines are located to ensure no negative impacts to wildlife – this can change setbacks. Generally, applicants may opt to wait for these results before engaging the community as presentations without the answers individuals are looking for can lead to mistrust.

Proposed Process determining Community Support and Consultation

In addition to the current processes outlined above, the following information will be required of all applications where concern about a particular project has been expressed by local residents.

Petitions filed with the Department of Energy will be accepted as evidence that there is concern by some local residents with a project. The petition must conform to the Nova Scotia Legislature requirements for petitions and must not contain false or misleading information. The petition must be project specific and relate only to issues relating to the project. In addition to the Nova Scotia Legislature Requirements, in order for it to be accepted as evidence of concern by some local residents, it must include sufficient information for there to be follow-up contact (email, mailing address or telephone number) by the Department. The contact information will be considered private information under the Freedom of Information and Protection of Privacy Act.

The applicant will be contacted to discuss increased community engagement requirements. In some cases applicants may form a community liaison committee as an avenue for dialogue between community members and the applicants. The community liaison committee could provide input into the construction and design of the renewable energy development. Community Engagement best practices for wind development can be found on the Canadian Wind Energy Associations website under the following link (http://www.canwea.ca/about/communityengagement_e.php). Resources for community engagement regarding tidal projects are currently under development.

The Department accepts that there are various levels of community support for a project, this can include letters from local residents, proof of public meetings and statements of support from local elected representatives. The Department will employ a scoring system to determine minimum community support criteria for projects. Below are a list of possible expressions of support and their assigned weight. Furthermore, various technologies have seen differing levels of concern, the Department will require the following scores for each technology type

Biomass (30 points)

Tidal (40 points)

Small Wind (50 points)

Large Wind (60 points)

Run-of-river hydro (30 points)

Scoring:

1. Is there a municipal support for the project?
 - a. Resolution from municipal council in support of the project (20 points)
 - b. Letter from the local councilor/MLA (20 points)
 - c. An existing planning framework for wind or renewable energy development – municipal zoning or bylaw. (15 points)
2. Can the applicant demonstrate support from local residents
 - a. Letters of support from residents within 5 km of the project. (2 points per letter)
 - b. Letters of support from residents within the municipality where the project is located (1 point per letter)

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- c. Letters of support from local businesses (minimum of 2) – located within the general area of the project (1 point per letter)
- d. Letters of support from local community groups (minimum of 2) – local fire hall etc. (2 points per letter)
- e. Results of publicized public meetings regarding the specific projects (survey of attendees) showing majority of attendees are in favour. (5 points per meeting)
3. Can the applicant demonstrate support of from the Municipality more broadly?
 - a. Letters from businesses located within the municipality (1 point per letter)
 - b. Letters from community groups or organizations within the municipality (2 points per letter)
 - c. Letter from regional development authority (5 points per letter)
4. Where substantial concern has been expressed – was there significant and appropriate community engagement? (10 points)

Community Engagement:

When considering the community engagement completed by the applicant, the Department may consider the following.

1. Petitions filed by community residents and the nature of their concerns. In particular – whether the concerns expressed will be addressed by the EA process.
2. Community engagement efforts and accommodations made by program applicants. Have program applicants reasonably accommodated community requests and addressed concerns? Have community concerns been documented and where possible and reasonable and mitigated; if not mitigation is not possible or reasonable, has this been explained? Are there additional mitigation measures that could reasonably be taken by applicants?
3. Results of the EA process. This is particularly important in a situation where a community may identify ongoing concerns.
4. Existing municipal framework for development. Setbacks or zoning requirements that have been established by municipalities will be considered in the context of community requests or concerns for increased setbacks.

Definitions:

Broad-based community support: Community means the Province of Nova Scotia for the purposes of raising project equity and securing debt financing.

Community Support: Community means the Municipality where the project is located

Local Residents: Residents living in the immediate area of the project, generally within a band of 2 – 3 km from the edge of the municipal setback

Community Engagement: Refers to engagement activities broadly, but specifically must include engagement of local residents.