

ISSUE BRIEF

February 2025

Renewable Energy and Storage Siting



General

1. What is PA 233 of 2023?

Public Act 233 of 2023 (PA 233, or Act 233) creates an option for developers (applicants) to ask the MPSC to grant a siting certificate for a qualifying wind, solar, or energy storage facility under specified conditions.

2. What is a PA 233 case?

A PA 233 case is initiated when an application is filed by a project developer (applicant) for a certificate from the MPSC for an eligible wind, solar, or energy storage facility. PA 233 cases are considered through the contested case process.

3. Who may participate in a PA 233 case?

The MPSC Staff and the applicant will participate in the case. Affected local units of government (ALUs), participating property owners, and non-participating property owners (as defined by the statute) may participate (“intervene”) in the case “by right.” This means that they must be allowed to participate in the case as long as they meet the deadline to do so. Other interested parties may request to participate in the case if the Administrative Law Judge (ALJ) finds they meet the permissive intervention criteria.

4. What are the criteria for permissive intervention?

In order to be granted permissive intervention, a potential intervenor must demonstrate that they would likely suffer a harm and that their affected interest is within the “zone of interests” designed to be regulated or protected by the statutes involved in the case. The ALJ will review the petition for intervention to determine whether the potential intervenor meets the required criteria.

5. What energy facilities are covered by PA 233?

The siting process created in PA 233 applies to:

- Solar facilities with a nameplate capacity of 50 MW or more,
- Wind facilities with a nameplate capacity of 100 MW or more, and
- Energy storage facilities with a nameplate capacity of 50 MW or more with a discharge capability of 200 MWh or more.

DISCLAIMER: This document was prepared to aid the public’s understanding of certain matters before the Commission and is not intended to modify, supplement, or be a substitute for the Commission’s orders. The Commission’s orders are the official action of the Commission.

6. I am potentially impacted by a PA 233 project. How do I find out more information about the project or get involved?

There are several opportunities for the public to participate in cases before the MPSC. The Commission's "[Get Involved](#)" [webpage](#) describes these further.

7. Under what specific conditions could an application be filed with the MPSC under PA 233?

Before submission to the MPSC, developers must communicate with each Affected Local Unit of government (ALU) for their project to determine whether any has a Compatible Renewable Energy Ordinance (CREO). Following that communication, an application could be filed under PA 233 under any of the following circumstances:

- An ALU requests the Commission to require an electric provider or independent power producer file with the Commission.
- An ALU has not provided timely notification that it has a CREO.
- An ALU states that it has a CREO, but fails to approve or deny a project in a timely manner.
- An ALU denies an application that complies with the requirements of Section 226(8) of PA 233.
- An ALU amends its zoning ordinance after stating that it has a CREO, and the amendment imposes additional requirements on the development of energy facilities that are more restrictive than those in Section 226(8) of PA 233.

8. What is a Compatible Renewable Energy Ordinance (CREO)?

A CREO is an ordinance that provides for the development of energy facilities within the local unit of government, the requirements of which are no more restrictive than the provisions included in section PA 233 226(8). A local unit of government is considered not to have a compatible renewable energy ordinance if it has a moratorium on the development of energy facilities in effect within its jurisdiction.

9. What are the filing requirements for a PA 233 case at the MPSC?

The [Application Filing Requirements and Procedures \(AFIP\)](#) contain filing instructions and requirements for PA 233 cases.

10. What is the process for approval of a PA 233 case?

Please refer to this [flowchart](#) for a visual overview of the MPSC PA 233 siting process.

11. What is the deadline for the Commission to issue a decision in a PA 233 case?

The Commission must make a final decision to grant or deny a PA 233 certificate by one year from the time of submission of a complete application.

12. How do I track an active PA 233 case?

Documents for all cases before the Commission can be found on the Commission's [E-Dockets webpage](#). Here, you can search for a case by its case number, party name, or case caption. Once you've found the case you are interested in, you can use the "Notify Me of New Approved Filings" button to be notified by email of new accepted uploads to the docketed case.

13. How do I navigate the E-Dockets database?

Help with using the E-Dockets database is available on the [E-Dockets Help page](#).

14. Who can I contact at the MPSC with general questions?

General questions on PA 233 cases should be emailed to LARA-MPSC-Siting@Michigan.gov. Alternatively, call the Commission's general line, available on our [Contact Us page](#), and request contact information for the Case Coordinator. Please have the docket number or project name available for the phone operator.

Affected Local Unit of Government

1. What are local governments' options for siting renewable energy facilities under PA 233?

Under PA 233, local governments' options for siting renewables remain largely unchanged from the options that existed prior to the enactment of PA 233. If a local government has a Compatible Renewable Energy Ordinance (CREO), then a proposed renewable energy project must go through the local siting process, unless the ALU requests the Commission require an applicant to apply for a certificate. If a local government does not have a CREO, local siting may still occur, but developers may, at their option, turn to the state's process for siting approval, provided the applicant meets the statutory requirements for doing so.

2. What rights or protections are included in PA 233 for local units of government?

- Local units of government retain their control and authority for siting renewable energy facilities when they claim CREO status. Local siting is still an option even if a local unit of government does not have a CREO. If a local unit of government does not have a CREO, then a developer may bring the proposed project to the Michigan Public Service Commission (MPSC) to have the project reviewed and sited, provided the applicant meets the statutory requirements for doing so.
- Under most circumstances, applicants with the MPSC will be required to make a 1-time grant to each affected local unit of government that will be no more than \$75,000 per ALU and not more than \$150,000 in total. These funds are provided to cover local units of governments' costs associated with the intervention in the contested case process of the proposed project. ALUs may be able to intervene by right in that contested case process.

3. If a developer offers to meet with a chief elected official regarding a proposed energy facility, when is the deadline for responding?

Once a developer contacts the chief elected official of an affected local unit of government to discuss a proposed energy facility, the affected local unit of government should notify the developer if it has a CREO within 30 days (see the [Commission's October 10, 2024 Order](#), Pg. 11 – 12).

4. If the ALU would like to request the MPSC require the developer to obtain a siting certificate for the proposed facilities, pursuant to PA 233 Section 222(2), what steps should the ALU take?

The affected local unit of government should send its request to the Commission by contacting LARA-MPSC-Edockets@Michigan.gov to the attention of the MPSC Executive Secretary and to the Staff at LARA-MPSC-Siting@Michigan.gov. A copy of the request should also be provided to the developer.

5. Are there resources available for local communities that want to establish zoning for renewable energy facilities?

Yes. Several resources exist to provide guidance to local communities seeking to establish zoning ordinances for renewable energy facilities and several are provided below. These resources are provided for educational purposes and to aid local units of government in establishing zoning for renewable energy facilities. Provision of these resources should not be interpreted as an endorsement of the resource by the MPSC or Commission Staff.

- [Planning & Zoning for Solar Energy Systems: A Guide for Michigan Local Governments](#)
- [Planning & Zoning for Battery Energy Storage Systems: A Guide for Local Governments](#)
- [Sample Zoning for Wind Energy Systems 2020](#)
- [Renewable Energy Academy](#)

6. Does PA 233 require public hearings regarding the application?

Yes. The developer must hold a public meeting in each ALU, unless exempted by certain circumstances. An exception to the requirement that a public meeting be held within each affected local unit of government occurs when one of the following is true:

- The ALU notified the developer that it had a CREO, and the application was not timely approved or denied by the ALU.
- The ALU notified the developer that it had a CREO and the ALU subsequently denied the application despite the proposed project complying PA 233 Section 226(8).
- The ALU notified the developer that it had a CREO and later amends its zoning ordinance so that it imposes requirements more restrictive than PA 233 Section 226(8).
- The ALU is a village, and a public meeting has already been held in the township containing that village.
- There are not facilities of sufficient size within the ALU to accommodate the public meeting (to be evaluated on a case-by-case basis; the public meeting is still required, and must be held as close as feasible to the ALU in question).

7. Will the ALU receive a copy of the Site Plan?

Yes. Pursuant to the MPSC process, each ALU will receive a copy of the site plan when a project application is received at the MPSC.

8. Who is eligible for a one-time grant?

Each ALU is eligible for the one-time grant unless one of the following is true:

- The ALU notified the developer that it had a CREO, and the application was subsequently not reviewed promptly by the ALU.
- The ALU notified the developer that it had a CREO and subsequently denied the application despite the proposed project complying with PA 233 Section 226(8).
- The ALU notified the developer that it had a CREO and later amends its CREO so that it imposes requirements for restrictive than PA 233 Section 226(8).

9. How may an ALU use the one-time grant?

Each ALU shall deposit the grant in a local intervenor compensation fund for use in covering costs associated with the ALU's participation in the contested case preceding on the application for a certificate.

10. What is required of an ALU regarding the grant funds?

- Within 15 days following the prehearing, one-time grants to ALUs that have not intervened in the case shall be refunded to the developer.
- ALUs that have participated as intervenors in the case are directed to file an official exhibit in the case prior to the conclusion of cross examination or the close of the record containing paid invoices for legal services for participation in the case and estimate for funds to be spent on legal services for briefing and exceptions.
- Remaining one-time grant funds not utilized for participation in the case shall be refunded to the applicant within 30 days following the date on which answers to petitions for rehearing on the Commission's final order are due.

11. Are there other resources available for ALUs to work with developers and the MPSC under PA 233?

Yes. The following resource is shared for informational purposes and to help ALUs track their rights and responsibilities throughout the consideration of a case under PA 233. Provision of this resource should not be interpreted as an endorsement of the resource by the MPSC or Commission Staff.

- [Checklist for Local Governments \(University of Michigan\)](#)

Applicant

1. What are the filing requirements for a PA 233 case at the MPSC?

The [Application Filing Instructions and Procedures \(AFIP\)](#) contain filing instructions and requirements for PA 233 cases. In addition, the [Application Checklist](#) lists each element of each filing requirement. The Applicant is expected to fill out the spreadsheet with page numbers and references pointing to the location in the application where each element is described. The completed spreadsheet must be included in the application submission and labeled as Exhibit A-16.

2. What are the pre-application requirements?

The pre-application process is defined in the [Application Filing Instructions and Procedures – Attachment C](#). That attachment outlines the Meeting with the Chief Elected Official, the Compatible Renewable Energy Ordinance Notification, and the Requirements for Public Notice and Public Meetings. If the project is to go to the MPSC for review, then the MPSC process may begin with a Pre-Application Meeting with Staff, as described in AFIP Attachment C-4.

3. When should an Applicant inform the MPSC Staff of a prospective filing?

Thirty days before filing an application for a certificate, the Applicant shall contact the Staff at LARA-MPSC-Siting@Michigan.gov to request a pre-application meeting. The Applicant should also complete the “[Pre-Meeting Application Questionnaire](#)” and submit it with their request.

4. Following the issuance of a PA 233 certificate, are there ongoing compliance actions throughout the life of the project?

- Post-certificate requirements are based on conditions attached to an order granting a siting certificate. Discussion of potential minimum conditions are laid out in Section 8 of the AFIP. Before commencing commercial operation, the Applicant must file a completion report certifying compliance with the statute as well as any conditions associated with an approved certificate.
- The Decommissioning Agreement will likely include requirements for periodic filings of updated decommissioning plans and costs and an annual showing that the financial assurance remains in place.

5. What payments are required by the applicant at the time of filing?

- At the time of filing an application with the Commission, the Applicant must provide a one-time grant of \$75,000 per ALU within the project site up to a total of \$150,000. (see PA 233 § 226(1) and AFIP section 6.4.1).
- At the time of the prehearing, the Applicant must submit the Base Application Fee. The Base Application Fee is \$10,000 to the MPSC Executive Secretary for applicants not regulated by the MPSC (regulated applicants already pay into an alternative funding scheme). Additional payments may be required (see AFIP Section 5).

6. What additional resources are also available?

- You may refer to this [flowchart](#) for a visual overview of the MPSC PA 233 siting process.
- The [AFIP](#) contains various links, additional resources, and guidance for specific filing requirements, such as the Sample Decommissioning Agreement (see AFIP Sec. 8.3 and Attachment E).
- In the [Pre-Application Consultations section](#) of the facility siting page, MPSC Staff have collected and published known contact information for various state and local agencies and tribal liaisons who should receive pre-application consultation inquiries regarding PA 233 cases.

Public/Landowners

1. Does PA 233 eliminate local siting authority for large-scale renewable energy facilities?

No. PA 233 creates a new option for developers to seek approval for proposed renewable energy facilities by the Commission under specified conditions.

2. How can a member of the public submit comments regarding an Act 233 proceeding?

Please see the MPSC's [Get Involved webpage](#) for directions on submitting comments by US mail or email. Comments may also be submitted directly into [MPSC e-dockets](#) system by following the posted [instructions](#). Comments may also be shared during the public comment portion of any regular Commission meeting.

3. Who is eligible to participate as an intervenor in a case?

Staff, the project's developer(s), participating landowners, adjacent nonparticipating landowners, and ALUs may participate as an intervenor by right. Others may file a petition to for permissive intervention (for more information on intervention in the contested case process, see the "General" FAQ).

4. How can a person file as an intervenor in a case, and what are the timelines/deadlines to intervene?

- Intervention is governed by Rule 306 of the [Administrative Hearing Rules](#), which can be found on the following webpage: [Administrative Rules/Laws](#).
- Case-specific detail on intervention can be found in the Notice of Hearing for the prehearing, which will be posted on the Commission's E-Docket system after the prehearing has been scheduled.

5. What is the process to submit inquiries / complaints for a specific project?

Each approved project will have a developer-specific or project-specific complaint resolution process for the site, including detailed information describing the process and contact information for resolving local complaints. The [Customer Assistance Division webpage](#) describes methods for filing an informal or formal inquiry or complaint with the MPSC.

6. Will landowners and members of the public receive notification if a developer is proposing a project?

Yes. When a developer submits an application to the Commission, it is the developer's responsibility to provide notice of the opportunity to comment on the application as prescribed by the Commission.

7. Are landowners required to participate in a proposed project?

No. The PA 233 process does not require landowners to participate in a renewable energy or storage project, nor does it confer the power of eminent domain. Agreements to participate in a PA 233 project are made at the landowner's discretion.

8. Are there resources to help a landowner understand the impacts of leasing land for a renewable project?

Yes. The resources provided below are intended for informational purposes only and to assist landowners in understanding impacts to leasing land for renewable projects. However, landowners are encouraged to review any proposed lease agreement, to conduct their own research regarding the impacts of leasing their land, and to evaluate these issues within the context of the proposed lease of their property. Provision of this resource should not be interpreted as an endorsement of the resource by the MPSC or Commission Staff.

- [Considerations for Utility Scale Solar Farm Land Lease Agreements](#)
- [Financial Considerations of On-Farm Renewable Energy](#)